

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW MEXICO
3 UNITED STATES OF AMERICA,
4 Plaintiff,
5 vs. NO: CR-15-4268 JB
6 ANGEL DELEON, et al.,
7 Defendants.

8
9 Transcript of excerpt of testimony of
10 LEROY LUCERO
11 May 7, 2018, and May 8, 2018
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1 May 7, 2018

2 THE COURT: All right. Mr. Lucero, if
3 you'll come up and stand next to the witness box on
4 my right, your left, before you're seated, my
5 courtroom deputy, Ms. Bevel, will swear you in.

6 LEROY LUCERO,
7 after having been first duly sworn under oath,
8 was questioned, and testified as follows:

9 EXAMINATION

10 THE CLERK: Please state your name and
11 spell your last name for the record.

12 THE WITNESS: Leroy Lucero.

13 THE COURT: All right. Mr. Lucero. Mr.
14 Castellano.

15 MR. CASTELLANO: Thank you, Your Honor.

16 BY MR. CASTELLANO:

17 Q. Good afternoon, Mr. Lucero.

18 A. Good afternoon, sir.

19 Q. To start things off, I noticed that the
20 right side of your face is swollen. Can you tell us
21 if you were at the dentist today?

22 A. Yes, sir. I got a tooth extracted.

23 Q. I'm going to ask you to move a little bit
24 closer to the microphone.

25 A. Yes.

1 Q. And I'll ask you if I'm partly to blame
2 for your tooth?

3 A. You gave me a candy.

4 Q. And when I gave you the candy, what
5 happened to your tooth?

6 A. You put it on the table, and I got it, and
7 I ate it.

8 Q. And then what happened to your tooth?

9 A. It broke in half.

10 Q. I'm sorry about that.

11 A. That's all right, sir.

12 Q. So I understand you just had a tooth
13 pulled. Were you given any medication when the
14 dentist pulled your tooth out?

15 A. They had a numbing, to cut the gum, to
16 take it out.

17 Q. Okay.

18 A. The root was pretty deep.

19 Q. Was that with a shot?

20 A. Yes, sir.

21 Q. All right.

22 A. I don't know what they gave me.

23 Q. And other than the shot, were you given
24 any other type of medication?

25 A. Yes, sir. They gave me a subscription --

1 I mean, a prescription of Ibuprofen.

2 Q. Okay.

3 MR. CASTELLANO: May I have a moment, Your
4 Honor?

5 THE COURT: You may.

6 MR. CASTELLANO: Thank you, Your Honor. I
7 apologize for the delay.

8 MR. SOLIS: Mr. Castellano, is there
9 anything I need to see?

10 MR. CASTELLANO: I apologize again, Your
11 Honor.

12 THE COURT: That's all right.

13 MR. CASTELLANO: At this time, I'm going
14 to move the admission of Government's Exhibit 111,
15 which is what we referred to in court as his pen
16 packet; and two other documents, which I will have
17 marked in a moment as Government's Exhibit 111-A.

18 THE COURT: All right. Any objection from
19 the defendants? Not seeing or hearing any,
20 Government's Exhibit 111 will be admitted into
21 evidence, and 111-A will be admitted into evidence.

22 MR. CASTELLANO: Thank you, Your Honor.

23 (Government Exhibit 111 and 111A
24 admitted.)
25

1 BY MR. CASTELLANO:

2 Q. Mr. Lucero, I'm going to show you a
3 document which is Government's Exhibit 113. It will
4 be on the screen next to you in a moment. And part
5 of my testimony (sic) will be largely you referring
6 to this document.

7 The jury has been hearing testimony about
8 somebody named Freddie Sanchez. And I want to go
9 back to 2001 and ask you about people by the names
10 of Rolando Garza and Frank Castillo. Do you
11 remember those two people, sir?

12 A. Yes, sir.

13 Q. And where were you in March of 2001?

14 A. March 2001, I was at Southern New Mexico
15 Correctional Facility.

16 Q. I'm going to --

17 MR. SINDEL: Can we have the witness move
18 closer to the microphone and speak up, please?

19 THE COURT: Yes, move up.

20 BY MR. CASTELLANO:

21 Q. I think you said you were at the Southern
22 New Mexico Correctional Facility; is that correct?

23 A. I think.

24 Q. So the bottom of Government's Exhibit 113,
25 I'm going to underline something for you which shows

1 on March 23, 2001, an indication that you were
2 discharged?

3 A. Yes.

4 Q. Do you remember that?

5 A. Yes, sir.

6 Q. And do you remember what day of the week
7 it was that you were discharged?

8 A. I do remember that day because I went
9 home. It was Friday.

10 Q. So even though you didn't remember that
11 was March 23rd, you remember that it was a Friday;
12 is that correct?

13 A. That's what I remember was, it was a
14 Friday.

15 Q. I want to ask you about events both before
16 and after this particular date here, which is March
17 23, 2001. At that time, were you an SNM Gang
18 member?

19 A. Yes, sir.

20 Q. And about when did you come into the SNM?

21 A. 1990.

22 Q. And how did you come into the gang?

23 A. Committing assaults.

24 Q. Who raised their hands for you to come
25 into the gang?

1 A. Angel Munoz, Dragon Albert Chavez.

2 Q. And at that point was Angel Munoz
3 basically the highest-ranking member of the SNM?

4 A. Yes, sir.

5 Q. And you mentioned you had to do some
6 assaults. Did you have to stab anybody?

7 A. Yes.

8 Q. Who did you stab, if you remember?

9 A. An LC in my home town.

10 Q. And is an LC a Los Carnales member?

11 A. Yes, sir.

12 Q. And you mentioned your home town. Were
13 you in prison or on the streets when you stabbed
14 that person?

15 A. I did it in the streets.

16 Q. Now, we've seen here that you were in
17 prison in 2001. Had you previously been convicted
18 of felony offenses?

19 A. Yes.

20 Q. I'm going to go over those with you now,
21 starting with Government's Exhibit 111. This is a
22 document the jury has heard, what's been referred to
23 as a pen pack or penitentiary package. I'm going to
24 draw your attention to page 70524 of that exhibit.
25 Do you see that this is a document which revoked

1 your probation?

2 A. Yes, sir.

3 Q. And as a result of your probation being
4 revoked, do you recall if you were sentenced to
5 prison time at that time?

6 A. Yes, sir.

7 Q. Showing you the next document, which is
8 70526, there's an indication that in 1992 you
9 entered into a plea agreement. And do you see here,
10 it was for the crime of aggravated battery with a
11 deadly weapon?

12 A. Yes, sir.

13 Q. Let me turn to the next document, which is
14 70528. Do you see in this document that the matter
15 came before the Court in 1998 for a guilty plea,
16 possession of heroin?

17 A. Yes, sir.

18 Q. And were you using heroin at that time?

19 A. Yes, sir.

20 Q. And have you been a long-time user of
21 controlled substances?

22 A. Since I was 15 years old, sir.

23 Q. And at that point, was heroin your drug of
24 choice?

25 A. Yes, sir.

1 Q. Are you currently on any medication to
2 address heroin addiction?

3 A. Yes. I'm on Suboxone.

4 Q. Suboxone?

5 A. Yes, sir.

6 Q. And turning to the next page of that
7 document I'm going to ask you if, as a result of
8 this conviction, the prosecutor filed a document
9 indicating that you were a habitual offender with
10 two prior convictions for the crime we pointed out
11 earlier, aggravated battery with a deadly weapon,
12 and another charge of aggravated assault with a
13 deadly weapon?

14 A. Yes.

15 Q. And as a result of that enhancement, was
16 there what's called a four-year habitual offender
17 time?

18 A. Yes, sir.

19 Q. Also in some of those documents it had
20 your name and also an "also known as" or a moniker
21 of Smurf. Do you recall that?

22 A. Yes, sir.

23 Q. And when you were in the gang, is that
24 what you were known as, as Smurf?

25 A. Yes, sir.

1 Q. If you recall, how many people were known
2 as Smurf in the SNM?

3 A. I think there is three of them.

4 Q. And did you bring one of those people into
5 the gang?

6 A. Yes, sir.

7 Q. Who was that person?

8 A. Archuleta, Daniel Archuleta.

9 Q. And is he also known as Smurf?

10 A. Yes.

11 Q. Do you remember who the other person was
12 who was referred to as Smurf?

13 A. I think it's Theodore Chavez.

14 Q. Okay. Turning now to page 70531, do you
15 see here in 2002 a plea and disposition hearing for
16 the crime of escape and felon in possession of a
17 firearm?

18 A. Yes, sir.

19 Q. And I asked you if you were discharged on
20 March 23rd of 2001. Are these new charges you
21 picked up after you were released from prison?

22 A. Yes, sir.

23 Q. At some point in time did you move from
24 state prison into a federal prison?

25 A. Yes, sir.

1 Q. And why was it that you were sentenced to
2 federal prison?

3 A. I got caught with a firearm.

4 Q. Where was the firearm located?

5 A. In my house, under my mattress.

6 Q. What type of firearm was it?

7 A. .12 gauge Mossberg.

8 Q. And if you remember, what was your
9 original sentence for that crime?

10 A. 180 months.

11 Q. And does that convert to 15 years?

12 A. Yes, sir.

13 MR. CASTELLANO: May I have a moment, Your
14 Honor?

15 THE COURT: You may.

16 Q. Okay. Mr. Lucero, I think we have these
17 loaded into the computer, so I'm going to show you
18 the first document from Exhibit 111-A. Okay. Do
19 you see where I'm circling here, the imposition of
20 judgment was on October 10th, 2007?

21 A. Yes, sir.

22 Q. And at that time were you sentenced for
23 what's known as an armed career criminal?

24 A. Yes, sir.

25 Q. And let's turn to the next page of that

1 document. And here, I'm circling 180 months. Is
2 that the sentence that you initially had?

3 A. Yes, sir.

4 Q. At some point when you were in federal
5 prison, are you aware of whether or not there was a
6 change in the law?

7 A. Yes, sir. There was Johnson.

8 Q. When you refer to the name "Johnson," was
9 that the name of a case that changed the law?

10 A. Yes, sir.

11 Q. As a result of that change and a change in
12 the law, were you no longer considered an armed
13 career criminal?

14 A. One of my sentences -- one of my
15 sentences, they couldn't use it, to use it as a
16 conviction as a violent offense.

17 Q. To enhance your sentence?

18 A. To enhance my sentence, yes.

19 Q. Let's turn to the next document, then,
20 which is part of Government's Exhibit 111-A. I'm
21 now showing you what's titled at the top Amended
22 Judgment in a Criminal Case. And as a result of the
23 change in the law, was your sentence amended and
24 were you resentenced?

25 A. Yes, sir.

1 Q. And did that happen on May 26th of 2016?

2 A. Yes, sir.

3 Q. Let's turn to the next page. I'm now
4 showing you a portion here that talks about what you
5 mentioned, the name of the case. In light of the
6 findings in Johnson versus United States and as a
7 result, was your sentence then changed or modified
8 to 112 months and 15 days as a result of the change
9 in the law?

10 A. Yes, sir.

11 Q. And were you released from prison at that
12 time?

13 A. Yes, sir.

14 Q. After you were released from prison, were
15 you placed on what's called a term of supervised
16 release?

17 A. Yes, sir. They put me on home
18 confinement. I had to wear an ankle bracelet.

19 Q. At some point did you violate those
20 conditions and were you resentenced to a term of
21 imprisonment?

22 A. Yes, sir.

23 Q. Can you tell the ladies and gentlemen
24 whether you have concluded that sentence and whether
25 you are no longer under supervised release?

1 A. I'm final.

2 Q. When did that finish?

3 A. March 21st, I think.

4 Q. Is that March of this year?

5 A. Yes, sir.

6 Q. I want to go back now to Government's
7 Exhibit 113. I want to take us back, once again, to
8 March 23rd of 2001, and I want to talk about events
9 that happened before that date.

10 A. Yes, sir.

11 Q. Did you ever have a conversation with
12 Angel Munoz?

13 A. Yes, sir.

14 Q. And if you recall, about how long before
15 that date did you have this conversation with him?

16 A. Two or three weeks prior to me getting
17 released.

18 Q. And at that time --

19 A. Maybe even longer, sir. I don't remember
20 the date exactly.

21 Q. And how were you able to have a
22 conversation with him?

23 A. I called him on the telephone through a
24 three-way.

25 Q. And what do you mean by a three-way?

1 A. Somebody calls their house, and they'll
2 call from their house to his house.

3 Q. And at that point, why did you not just
4 call him directly?

5 A. I didn't want to use my -- my phone.

6 Q. Your prison account phone?

7 A. Yes.

8 Q. And whose phone or account did you use to
9 make that call?

10 A. An individual named Jason Holster.

11 Q. As a result of that phone call, did you
12 learn whether or not Billy Garcia would be coming to
13 the facility?

14 A. Yes, sir.

15 Q. And what was your understanding of what
16 would happen once Billy Garcia arrived at the
17 facility?

18 A. Well, Angel told me that he's going to go
19 clean house, dirty laundry that had to be washed,
20 which there's some bad people in the yard; something
21 had to happened.

22 Q. At that point, did he tell you anything
23 more than that? Were there any names or anything
24 like that?

25 A. No, sir.

1 Q. Now, what was your position in the SNM in
2 March of 2001?

3 A. At that time, I pretty much had the yard.
4 I was one of the oldest brothers there at that time.

5 Q. And how was it that you found yourself in
6 charge of the yard?

7 A. Prior to me getting that, there was a few
8 stabbings and assaults that happened. So the guys
9 that had the yard prior to that, they got shipped
10 out to Virginia and just went to segregation.

11 Q. Who were the people who got sent to
12 Virginia?

13 A. Lino G, Pumba. Let's see. T-Bone later.
14 There was quite a few that got shipped out.

15 Q. And do you know Lino G's full name, or is
16 that just the name you knew him by?

17 A. I knew him as Lino G. Lino Giron,
18 something, you know what I mean?

19 Q. Lino Giron?

20 A. Um-hum.

21 Q. What about the person you referred to as
22 T-Bone?

23 A. I know his last name is Chavez.

24 Q. What about the person you referred to as
25 Pumba?

1 A. Mauricio Varela.

2 Q. And were those people higher ranking than
3 you before they left the facility?

4 A. Yes, sir. They had say-so.

5 Q. And how is it, then, that you became
6 somebody in charge of the yard once they left?

7 A. Just the years I've been in on' -- in the
8 gang.

9 Q. And you almost said the word "onda." What
10 does that mean?

11 A. Family.

12 Q. Was that a term that you guys used for the
13 gang?

14 A. Yes, sir.

15 Q. When you moved into that position, did you
16 have any discussions with the administration?

17 A. They did pull me -- they did pull me in.
18 And I knew Warden Tafoya from the Main in Santa Fe,
19 and he knew that I'd been in the onda for a long
20 time. So what he did, he and one of the STGs pulled
21 me in and said if --

22 MR. CASTLE: Objection; hearsay.

23 THE COURT: Hold on. Are you trying to
24 elicit this testimony?

25 MR. CASTELLANO: I'll rephrase to what he

1 said, Your Honor.

2 BY MR. CASTELLANO:

3 Q. As a result of this conversation, did you
4 agree with the administration to do anything with
5 regard to the SNM?

6 MR. CASTLE: That's still hearsay, Your
7 Honor.

8 THE COURT: Overruled.

9 MR. CASTLE: Well, if I could just make a
10 record on that?

11 THE COURT: You may.

12 MR. CASTLE: Your Honor, if I'm agreeing
13 with somebody and then I say what it is, then I'm
14 indicating what the other person said.

15 THE COURT: Well, he's not doing that.
16 That's not what the question is. Overruled.

17 BY MR. CASTELLANO:

18 Q. What did you agree to do with the SNM
19 after that conversation?

20 A. Well, to keep it mellow, Mr. Tafoya, the
21 Warden at that time, told me, you know --

22 Q. You can't say what someone else told you,
23 so we'll stay away from that.

24 A. Okay.

25 Q. So there is a rule called hearsay. You

1 can't say what other people said. But as a result
2 of that conversation, what did you do?

3 A. I agreed to keep the yard peaceful.

4 Q. And at that time, were there any green
5 lights outstanding that you were aware of?

6 A. There was a few.

7 Q. What happened as a result of the green
8 lights that you were aware of at that time?

9 A. There was green lights throughout the
10 state of New Mexico. There was nobody there at the
11 time that had a green light.

12 Q. Did you put out any red lights at that
13 time and instruct people not to do things?

14 A. Yeah, it was an everyday thing. It was
15 just keep these guys under control so they won't be
16 committing assaults and shit -- and stuff. Sorry.

17 Q. And once Billy Garcia arrived at the
18 facility -- do you remember when that happened,
19 approximately?

20 A. Like a week before I got out. I got out
21 on the 23rd, and he got there prior -- a week prior
22 to me leaving.

23 Q. Now, when both you and Billy Garcia were
24 at the facility, who was the higher ranking member?

25 A. Billy Garcia.

1 Q. And who had been in the SNM longer at that
2 time?

3 A. Billy.

4 Q. Did you have a chance to discuss anything
5 with Billy Garcia during the time you were together?

6 A. We spoke.

7 Q. And once you spoke to him, were you aware
8 that there were any green lights on anyone at the
9 facility?

10 A. Yes, sir.

11 Q. What did Mr. Garcia tell you about that?

12 A. That he's going to clean house; there has
13 to be a couple of guys that have got to get dealt
14 with.

15 Q. And who were those people?

16 A. Rolando Garza and Frank Castillo.

17 Q. Tell us about the relationship you had
18 with Rolando Garza.

19 A. He was a friend of mine. I got close to
20 him. He was a good friend of mine.

21 Q. Who is the person who brought him into the
22 SNM?

23 A. I was one of them.

24 Q. So if you can, explain to the members of
25 the jury so they understand, what happens when you

1 bring someone into the SNM, and then they become a
2 problem or they have a green light on them? Who is
3 responsible for that person?

4 A. If you cosign for somebody, it's like
5 you're responsible for him. If he messes up, you're
6 the person that's supposed to take him out.

7 Q. So when you learned that there was a green
8 light on Rolando Garza, how did that make you feel?

9 A. It made me feel messed up because I
10 couldn't really do nothing, because it came from
11 higher up above. You know, to this day I still
12 think it's wrong that he got taken out.

13 Q. I want to ask you, because you're
14 responsible for him, according to the rules, did you
15 ask Billy Garcia anything about what you should do?

16 A. Yes. I asked him if he wanted me to do
17 anything. And he said, "No, just go ahead and go
18 home; they'll take care of it."

19 Q. And at that point, when you said "do
20 anything," what were you telling him you were
21 willing to do pursuant to the rules?

22 A. Take him out, assault him, stab him, do
23 whatever.

24 Q. So if Billy Garcia would have told you --
25 because that's basically what the rules said --

1 would you have had to act on an order by him?

2 A. Yes, sir.

3 Q. And would you have followed through on
4 that order?

5 A. Yes, sir.

6 Q. But instead, did Billy Garcia allow you to
7 leave the facility and go home?

8 A. Yes, sir. He just told me I could go, you
9 know, riding, go home; they'll take care of it.

10 Q. I want to ask you about what was going on
11 with Christopher Chavez at that time, as well.
12 Before you left the facility, did you have any
13 conversations with Christopher Chavez?

14 A. Yes.

15 Q. About Rolando Garza?

16 A. Yeah. He came up to me one morning and
17 just told me -- you know, he asked me, "What do I
18 do, carnal"? I told him, "What do you mean, what do
19 you do?" He said, "Is it right?"

20 And I told him, "Hey, you got orders,
21 you've got to follow orders. That's on you," I told
22 him. "That's on you, you know. It's your decision.
23 Either do it or don't, or whatever the situation may
24 be."

25 Q. Now, you didn't mention any names. Did

1 you know what he was talking about when he mentioned
2 the orders?

3 A. Yes, sir.

4 Q. Who was he talking about?

5 A. Rolando Garza, taking him out.

6 Q. And given the fact that you and Garza were
7 fairly close, did anyone keep an eye on you?

8 A. Yeah. He -- most of the brothers that
9 lived inside that unit thought I was going to give
10 him heads-up that he was going to be their victim.
11 So they would just watch me. They would follow me
12 around, you know what I mean, just to see what I was
13 going to do.

14 Q. How did that make you feel, with people
15 watching you?

16 A. It felt kind of messed up that they didn't
17 trust me.

18 Q. And did you ever have a conversation with
19 Christopher Chavez about the fact that he was kind
20 of watching you around Mr. Garza?

21 A. Yes, sir. Later on down the line, a few
22 years later, I ran into him at the North in Santa
23 Fe. We lived in 2-B. And he told me that he was
24 watching me; he thought I was going to tell him.

25 Q. He thought you were going to warn Mr.

1 Garza?

2 A. Yes.

3 Q. I asked you about some conversations
4 earlier, about when he was following you. Was that
5 before Mr. Garza was killed?

6 A. Yes, sir.

7 Q. And the conversation you just told us
8 about, you said a few years later, was that after
9 Mr. Garza was killed?

10 A. That was after Mr. Garza was dead.

11 Q. And could you have warned Mr. Garza that
12 he was in trouble?

13 A. I could have.

14 Q. How do you feel about the fact that you
15 didn't?

16 A. I feel messed up, you know, that I didn't
17 warn him, you know. I could have saved his life,
18 but that would have put my life in danger.

19 Q. So explain that to us, please. Why would
20 you have been in danger?

21 A. Because I would have become a snitch.

22 Q. And would that have been a violation of
23 the rules?

24 A. Yes, sir.

25 Q. And by not warning Mr. Garza that he was

1 in harm's way, were you following the rules at that
2 time?

3 A. Yes, sir.

4 Q. And then about how soon after you left the
5 facility and went home did you find out what
6 happened to Mr. Garza?

7 A. I got home on Friday. I was looking at
8 the newspaper, like Monday or Tuesday of the
9 following week, and there was an article in the
10 newspaper that they found two inmates dead at the
11 Southern New Mexico Correctional Facility.

12 Q. And what did you know about any actual
13 details of what was going to happen to these two
14 men? Did you know any of the plans? Or did you
15 just know that they were probably going to get
16 killed?

17 A. I didn't know the plans. I just knew they
18 were going to get hit.

19 Q. And what did you know about Mr. Castillo?

20 A. That he was going to get hit also.

21 Q. And did you know any of the people that
22 Mr. Garcia, Billy Garcia, anyone he recruited as
23 part of this plan?

24 A. I know -- I knew all of them.

25 Q. What do you know about Eugene Martinez and

1 his relationship with Billy Garcia?

2 A. They go back for a few years. I guess
3 Billy liked Little Huero. That's his nickname. I
4 guess they did time together in Estancia.

5 MR. CASTLE: Your Honor, I'm going to
6 object to foundation.

7 THE COURT: Well, lay some foundation how
8 he knows this.

9 BY MR. CASTELLANO:

10 Q. How do you know about the relationship
11 between Mr. Garcia and Eugene Martinez? Are those
12 from conversations with Mr. Garcia or another
13 source?

14 A. Eugene. He told me they were close.

15 MR. CASTLE: Objection, Your Honor;
16 hearsay.

17 THE COURT: Sustained.

18 Q. Did you know about the relationship
19 between Billy Garcia, about their relationship?

20 A. No, sir.

21 Q. I want to put side by side Government's
22 Exhibit 113 and Exhibit 83. Once again, on Exhibit
23 113, which is your location history, I'm going to
24 put a line under the date March 23, 2001, the date
25 you were discharged; and on Exhibit 83, that's Billy

1 Garcia's.

2 Do you see that he arrived at the facility
3 on March 8th of 2001?

4 A. Yes, sir.

5 Q. And if you can tell, the next couple of
6 entries are Southern; they're L-2. Do you know if
7 those are orientation pods or different pods?

8 A. That's orientation. When you get to
9 Southern, you -- at that time, you would go into an
10 orientation. They'll keep you there for a week, two
11 weeks, depending on the house, you know, the bed
12 space.

13 Q. If you recall, did you have a chance to
14 speak to Mr. Garcia while he was in orientation or
15 after he was out of orientation?

16 A. After he got out.

17 Q. I'm going to show you now -- I'm going to
18 underline the next entry, which is March 20th of
19 2001. And do you see where it shows -- I'm sorry,
20 March, yeah, March 20th -- a move to Southern
21 housing unit P-2. I'm going to circle it right
22 there.

23 A. Okay.

24 Q. Is that housing unit P-2?

25 A. Yes, sir.

1 Q. And is that following orientation?

2 A. That's after. That's general population.
3 They let you out into the yard.

4 Q. And do you know what B-1174 is? Is that
5 the pod and the cell he was in?

6 A. Blue. The B stands for blue.

7 Q. At that time, it looks like you were in O
8 pod; is that correct?

9 A. Yes, sir.

10 Q. Who all was in your pod, that you
11 remember?

12 A. Chris Chavez; Rolando Garza; Eugene;
13 Molina, Ray Molina; Trigger. Trigger is Patterson.
14 There was a few other guys in there. The majority
15 of the guys in our unit are brothers.

16 Q. When you say "brothers," do you refer to
17 them as SNM Gang members?

18 A. Yes.

19 Q. At that point, did you know Christopher
20 Chavez to be SNM?

21 A. Yes, sir.

22 Q. What about Allen Patterson?

23 A. Yes, sir.

24 Q. And describe Allen Patterson for us.

25 A. Quiet. He was always vigilant. He was

1 always quiet, just mind his own business, just do
2 his own thing, you know. He was always in the
3 background, observing. He wasn't loud or something.

4 Q. Even though he was someone who was quiet,
5 did you still know him to be an SNM member?

6 A. Yes, sir.

7 Q. And was Rolando Garza an SNM Gang member?

8 A. Yes, sir.

9 Q. And do you know why he was killed?

10 A. There's a few speculations, but -- there's
11 a few of them.

12 Q. And do you know any of those reasons from
13 either Angel Munoz or from Billy Garcia?

14 A. No, sir.

15 Q. And are you aware -- you said there is
16 speculation, but are you aware that he was killed
17 for violation of the SNM rules?

18 A. Yes, that's what it comes down to. If
19 something happened down the line, that would have
20 put him in the crosshairs of the S.

21 Q. What about Frank Castillo?

22 A. Also.

23 Q. So when Billy Garcia got to the facility,
24 whose responsibility was it to make sure these hits
25 happened?

1 A. Billy's.

2 Q. Was anyone higher ranking than him at the
3 facility at that time?

4 A. No, sir.

5 Q. Now, do you remember previously giving
6 statements to law enforcement where you believed
7 that you had seen Jake Armijo around the facility at
8 that time?

9 A. Yeah. I've done time with these guys for
10 a lot of years. So it was just a misunderstanding.
11 I just, you know, I just try to -- I ran into him
12 here, there, the South, the North, you know what I
13 mean? It was a misunderstanding.

14 Q. Let me bring up his history for you. His
15 exhibit is Exhibit 635. Let me ask you this first:

16 When you spoke to law enforcement, did you
17 believe that Jake Armijo was at the facility about
18 the time of the murders?

19 A. I thought so. I thought.

20 Q. I'm now showing you Exhibit 635. Do you
21 see that this is Manuel Jacob Armijo's location
22 history?

23 A. Yes, sir.

24 Q. Let me go to the second page of that
25 exhibit. I'm showing you -- I'm underlining the

1 date January 18, 2001, Southern Facility. Do you
2 see that?

3 A. Yes, sir.

4 Q. I'm now going to show you an entry where
5 he left for PNM on February 5th, 2001.

6 A. Yes.

7 Q. Do you see that?

8 A. February 5th, 2001?

9 Q. Yes.

10 A. Yes, sir.

11 Q. Even though you believed he was at the
12 facility, do you see here that he was not at the
13 facility at that time?

14 A. I got it mixed up with a later time that I
15 was with him at Southern. Like I said, we ran into
16 each other here or there.

17 Q. Have you done time with Jake Armijo
18 before?

19 A. Yes, sir.

20 Q. And is he also known as Big Jake?

21 A. Yes, sir.

22 Q. I'm going to switch gears a little bit to
23 when you were in federal prison. Do you remember
24 that?

25 A. Yes, sir.

1 Q. In which facilities did you do time?

2 A. I've done six different facilities.

3 Q. In the federal system, is that called the
4 Bureau of Prisons?

5 A. BOP.

6 Q. During that time, were you ever housed
7 with somebody named Frankie Gallegos?

8 A. Yes, sir.

9 Q. Do you know him by any other names?

10 A. Frankie G, Cunte.

11 Q. And can you tell the members of the jury
12 whether he is an SNM Gang member?

13 A. Yes, sir, he is.

14 Q. And did you ever have a dispute with him
15 in the Bureau of Prisons?

16 A. Yes, sir.

17 Q. What kind of dispute was it?

18 MR. SINDEL: Your Honor, I'm going to
19 object to the relevance of this particular situation
20 about disputes with Frankie Gallegos. I don't see
21 how it connects with any of the individuals that are
22 here today.

23 THE COURT: What's the relevance of it for
24 this trial?

25 MR. CASTELLANO: I'll ask some other

1 questions, Your Honor.

2 BY MR. CASTELLANO:

3 Q. You said he was SNM?

4 A. Yes, sir.

5 Q. And at this point in time, in the feds, do
6 you know what his position is in the feds?

7 A. Well --

8 MS. TORRACO: Objection; speculation.

9 THE COURT: Lay some foundation how he
10 knows.

11 BY MR. CASTELLANO:

12 Q. Are you aware of people's -- being an SNM
13 member previously, are you aware of people's rank in
14 the gang?

15 A. Yes, sir.

16 Q. In both the federal and state systems?

17 A. Pretty much.

18 MS. TORRACO: Objection; that's all based
19 on hearsay, Your Honor. We'd ask --

20 THE COURT: I think people know -- if
21 they're leaders in the organization, they know the
22 structure. Overruled.

23 BY MR. CASTELLANO:

24 Q. Are you familiar with the structure of the
25 organization?

1 A. Yes, sir.

2 Q. And is there an SNM in the federal system?

3 A. Yes, sir.

4 Q. As a result of your experience in the
5 federal system, do you know what kind of position
6 Frankie G has?

7 A. He's calling the shots right now for the
8 BOP.

9 Q. And who are his brothers?

10 A. Joe Gallegos; Andrew. He has a few
11 brothers.

12 Q. And do you -- speaking of membership, do
13 you know whether or not Joe Gallegos is a member of
14 the SNM?

15 A. Yes, sir.

16 Q. And are you aware of whether or not Andrew
17 Gallegos is a member of the SNM?

18 A. Yes, sir.

19 Q. Let me rephrase that. Do you know them
20 still to be members of the SNM?

21 A. Yes, sir, they are.

22 Q. Have you ever done time with somebody
23 named Arturo Garcia?

24 A. Yes, sir.

25 Q. Has that been -- over the years, have you

1 served time with him on multiple occasions, or a few
2 occasions?

3 A. Multiple occasions. We were in the Main
4 together in Santa Fe, and we were at the North.
5 We've been in the system together for a while.

6 Q. Sometime before you went off to the
7 federal system, I want to ask you about a
8 conversation you had with him regarding somebody
9 named Freddie Sanchez. Do you remember that?

10 A. Yes, sir.

11 Q. Where were you guys when you had that
12 conversation?

13 A. We were in the rec pens at the North
14 facility. We lived in 2-B together. He lived in a
15 different pod as us, but as we went to the yard, we
16 landed up meeting in the yard, and we had a few
17 conversations.

18 Q. What do you remember him telling you about
19 Freddie Sanchez?

20 A. That there is a green light on him for his
21 violation.

22 Q. And did he ask you to do anything as a
23 result of the violation?

24 A. After, we knew what we had to do.

25 Q. Okay.

1 A. All he had to say was, "There's a green
2 light on him." We knew what time it was.

3 Q. And what was his position in the SNM at
4 that time?

5 A. He was pretty high up there. He was
6 pretty high ranking.

7 Q. Do you know what the term "tabla" means?
8 Are you familiar with that term?

9 A. Yes, sir.

10 Q. What does "the tabla" refer to?

11 A. It's like a table. It's -- the Spanish
12 word is table -- the English word is table. But
13 it's the group of individuals that sit down as a
14 board.

15 Q. And were you ever a member of the tabla?

16 A. Yes, sir.

17 Q. Who was on the tabla the same time you
18 were?

19 A. Arturo; Juan Mendez; Robert Martinez; and
20 Styx, Gerald Archuleta; and -- let's see. That's
21 it.

22 Q. About what year was it when that
23 particular group was on the tabla?

24 A. Two thousand -- I don't remember, sir. I
25 can't remember. Two thousand -- before I went to

1 the feds, 2005, 2006.

2 Q. Do you know what happened to your position
3 once you went to the federal system?

4 A. They handed it to somebody else.

5 Q. And is that how it would work? If there
6 was a vacancy on the tabla, would they appoint
7 someone else to help make decisions?

8 A. Yes, sir.

9 Q. What types of decisions would the tabla
10 make?

11 A. Life and death.

12 Q. What did you do in response to what
13 Mr. Garcia told you about the red light on Freddie
14 Sanchez? Did you talk about it with anybody else?

15 A. The red light? Or the green light?

16 Q. The green light.

17 A. The green light, no. I did talk with
18 Benjamin Clark at the South, because I got moved
19 from the North to the South. And I did speak with
20 him about that, and he told me that he -- that they
21 would take care of it.

22 MR. SOLIS: Objection --

23 THE COURT: Well, is this on the chart?

24 MR. CASTELLANO: I don't think it is on
25 the chart.

1 THE COURT: All right. Do you want to go
2 there, then?

3 MR. CASTELLANO: I'll ask some other
4 questions, Your Honor.

5 THE COURT: All right.

6 BY MR. CASTELLANO:

7 Q. So I want to make sure we have our
8 facilities right. So do you say you moved from the
9 North facility to the South facility?

10 A. Yes, sir.

11 Q. And was that at PNM in Santa Fe?

12 A. Yes, sir, the Penitentiary of New Mexico.

13 Q. So at that point in time when you had a
14 discussion with Benjamin Clark, was he still at the
15 South facility?

16 A. He was at the South facility.

17 Q. Is that facility different from the
18 Southern New Mexico Correctional Facility?

19 A. Yes, sir. It's a level lower than the
20 North. The North is Level 6, and the South is Level
21 5. As you behave and you follow the rules, you go
22 lower in levels, and you get more privileges as you
23 go.

24 Q. At the point you went to the South
25 facility at PNM, was Ben Clark there?

1 A. Yes, sir.

2 Q. Was Freddie Sanchez there?

3 A. Yes, sir.

4 Q. Are you aware of whether or not anything
5 was going to happen to him at the South Facility?

6 A. Well, he had a green light on him, but
7 what they were waiting for is to do him right. It's
8 just a lockdown facility so, you know, the door is
9 -- you -- a single man comes out. It goes in groups
10 sometimes. But as different levels, different
11 stages, you get to come out with groups. Right
12 there wouldn't have been the place to do it, to get
13 him.

14 Q. Okay. So if it wasn't going to happen at
15 the PNM South Facility, did you have an expectation
16 that it would happen at another facility?

17 A. Yes, sir, from the level below that, is
18 Level 4. That's Las Cruces, Southern.

19 Q. As a result of your conversation -- and
20 you don't have to tell us what he said -- but did
21 you have discussions with anyone else other than Ben
22 Clark about Freddie Sanchez at the South facility?

23 A. No, sir.

24 Q. And as a result of your conversations with
25 Ben Clark, did you expect anything to happen at the

1 South facility?

2 A. No, sir. I didn't think it was going to
3 happen there.

4 Q. Given the fact that there was a green
5 light on him, was it just a matter of time?

6 A. Yes, sir.

7 Q. So at that time in -- before you went to
8 the feds, were you still an SNM Gang member?

9 A. Yes, sir.

10 Q. When you went to the federal system, did
11 you remain -- when you first entered the system,
12 were you still an SNM Gang member?

13 A. Yes, sir. I stayed active. I stayed a
14 member until maybe a year after I got to the BOP,
15 the Bureau of Prisons.

16 Q. And what happened with your status with
17 the SNM after you arrived at the Bureau of Prisons?

18 A. I got tired of being involved with all
19 this shit. I left it to somebody else. When I left
20 the Pen of New Mexico, they gave it to somebody
21 else, and I think that became Dan Sanchez.

22 Q. And did you eventually renounce your
23 membership in the SNM?

24 A. Yes, sir.

25 Q. Where did you do that?

1 A. Lewisburg, Pennsylvania.

2 Q. Is that a federal facility in
3 Pennsylvania?

4 A. Yes, sir. It's a maximum security.

5 Q. And what did you have to do to renounce
6 membership in the federal system?

7 A. I had to debrief. I just threw in the
8 towel. I wanted to go home. I just --

9 Q. And when you debrief with them, what does
10 it mean to debrief with them in the federal system?

11 A. You sit down with some gang officers, and
12 they ask you questions: If you know anything about
13 crimes; how did you come into the gang; if you knew
14 the gang structure; if you -- they want to see if
15 you really want out. So they ask you all kinds of
16 different questions.

17 Q. Are you familiar with the terms STG or
18 STIU?

19 A. Yes, sir.

20 Q. What do those mean in the state system, or
21 what does that refer to?

22 A. In the state system, it's Security Threat
23 Groups. In the BOP, it's SIS. They do the same
24 job. They're a gang task force.

25 Q. So in the federal system, are they just

1 referred to as the SIS, then?

2 A. Yes, sir.

3 Q. Did you give them information about the
4 SNM Gang when you debriefed?

5 A. Yes.

6 Q. As a result of the information that you
7 gave them, did anyone reach out to the FBI at some
8 point?

9 A. Yes, sir. While I was going through my
10 debrief, I guess they called, I guess, the agents
11 from that area. The FBI reviews these debriefs.
12 When they reviewed this debrief, there was
13 information in there that the FBI felt that they had
14 to reach out to New Mexico FBI, and they did.

15 Q. At some point after giving that
16 information, did someone from the FBI in New Mexico
17 visit with you?

18 A. Yes.

19 Q. Do you remember that person's name?

20 A. Lance Roundy.

21 Q. Was he a New Mexico FBI agent?

22 A. Yes, sir. He was from out here in Las
23 Cruces, I think.

24 Q. Was he interested in speaking with you
25 because you'd given information about some of these

1 murders?

2 A. Yes, sir.

3 Q. Did that include the Garza and Castillo
4 murders?

5 A. Yes, sir.

6 Q. And did you provide some of the names of
7 the people involved with those murders?

8 A. Yes.

9 Q. Related to the Garza murder, what names
10 did you provide to him?

11 MR. SINDEL: Object, Your Honor. That's
12 hearsay.

13 THE COURT: Overruled.

14 MR. SHATTUCK: Your Honor, may we
15 approach?

16 THE COURT: You may.

17 (The following proceedings were held at
18 the bench.)

19 MR. SHATTUCK: Your Honor, I'm going to
20 object to, if Mr. Castellano is going to try to
21 elicit Mr. Patterson's name, number one,
22 Mr. Patterson never talked to him. I think he's
23 going to allege that Chris Garcia mentioned my
24 client's name.

25 THE COURT: Do you know what he's going to

1 say?

2 MR. CASTELLANO: Not the source of the
3 information. I know the information that he
4 provided, so I can try to lay a foundation for how
5 he knew the information.

6 MR. CASTLE: It's a prior consistent
7 statement, which is not admissible under 801 until
8 after the credibility of the witness has been
9 attacked.

10 MR. SHATTUCK: And there's another issue,
11 too. When he first talked to Roundy, he told Roundy
12 it was Archie Mauricio Varela. And then about two
13 months ago he changed it to Allen Patterson, saying
14 that Roundy had made a mistake.

15 THE COURT: Are you trying to bolster him
16 before he's impeached?

17 MR. CASTELLANO: I am, Your Honor. And he
18 actually gave another statement in May, following
19 that, where he gave the right name. And then when
20 he talked to the FBI, he had a correct name before
21 he was asked about any corrections in the report.

22 MR. SOLIS: Actually, in May he had
23 incorrect names. He had Molina in there. That was
24 incorrect, too.

25 THE COURT: Let's do this. It sounds like

1 this would be better for when you do redirect,
2 because it's not yet -- I'd be surprised if he's
3 not, but we probably ought to do it in the order.
4 And I think it might also involve them might end up
5 having to refresh his memory to get the exact name,
6 or leading him, and that makes me a little
7 uncomfortable at this stage. So we'll leave this
8 for redirect.

9 MR. CASTELLANO: That's fine, Your Honor.
10 We can do that.

11 THE COURT: And if y'all need to recross
12 after it's over, we can look at it then.

13 MR. SHATTUCK: I appreciate it. Thank
14 you.

15 (The following proceedings were held in
16 open court.)

17 THE COURT: All right. Mr. Castellano.

18 MR. CASTELLANO: Thank you, Your Honor.

19 BY MR. CASTELLANO:

20 Q. If you recall, Mr. Lucero, about how many
21 times did you meet with Agent Roundy?

22 A. I met with Mr. Roundy, I think, on three
23 different occasions face-to-face. And I would speak
24 to him on the phone a lot.

25 Q. Okay. So did you speak to him in person

1 and on the phone?

2 A. Yes, sir.

3 Q. And when you did so, did you give him
4 information about the SNM?

5 A. Yes.

6 Q. And did that include murders?

7 A. Yes, sir.

8 Q. When you gave him that information, were
9 some of those murders still unsolved murders?

10 A. Yes, sir.

11 Q. And after you were released from custody,
12 did you give additional statements to Agent Bryan
13 Acee of the FBI?

14 A. Yes, sir.

15 Q. And were you giving him general
16 information about the SNM, as well? Right?

17 A. Yes, sir.

18 Q. And at some point in time did he turn the
19 conversation to the Castillo and Garza murders?

20 A. Yes, sir.

21 Q. And when he did that, for that particular
22 portion, did he record that portion?

23 A. Yes, sir.

24 Q. And was a transcript also made of that
25 recording?

1 A. Yes, sir.

2 Q. I want to go back to ask you about a
3 person or persons you stabbed before. Have you ever
4 heard of the All Stars?

5 A. Yes, sir.

6 Q. Who were the All Stars?

7 A. It was a group of brothers that wanted to
8 branch out and make their own clique.

9 Q. Did the SNM allow that?

10 A. No, sir.

11 Q. What happened to those people?

12 A. They stabbed them up. I did.

13 Q. Who were the people you stabbed?

14 A. Roy Torres.

15 Q. And did you do that because it was
16 expected of you by virtue of your membership in the
17 SNM Gang?

18 A. Sure.

19 Q. And did the SNM Gang remain one gang, even
20 when the All Stars tried to break free?

21 A. Yes, sir.

22 Q. About how long did the All Stars last?

23 A. Not too long, sir. Maybe a few months. A
24 year at the most.

25 Q. And were there people other than you who

1 also committed assaults on people who were
2 identified as the All Stars?

3 A. Yes, sir.

4 THE COURT: Mr. Castellano, is this a good
5 point for us to take our break for the evening?

6 MR. CASTELLANO: It is, Your Honor.

7 THE COURT: All right. I know some people
8 felt badly this afternoon, had headaches, upset
9 stomach. I appreciate you hanging in there. I know
10 sometimes it's a little tough on Monday to get it
11 going again, and I appreciate the way everybody
12 worked hard this afternoon.

13 Y'all have a good evening. Get some rest.
14 And we'll see you at 8:30.

15 All rise.

16 (The jury left the courtroom.)

17 THE COURT: All right. We'll see y'all in
18 the morning. Have a good evening.

19 (The Court stood in recess.)
20
21
22
23
24
25

1 May 8, 2018

2 THE COURT: Good morning, everyone. I
3 appreciate everyone making themselves available
4 early this morning. I appreciate everybody's
5 cooperation on that. We've got all the jurors
6 there. Line them up.

7 Is there anything we need to discuss
8 before we bring the jury in? Anything I can do for
9 you, Mr. Castle?

10 MR. CASTLE: Yes, just briefly. The
11 marshals needed an order.

12 THE COURT: I signed it. Everybody is in
13 agreement on that. I was told that you were, so I
14 signed it this morning.

15 Did you have something, Ms. Armijo?

16 MS. ARMIJO: Not pressing, but if we have
17 30 seconds.

18 THE COURT: Go ahead.

19 MS. ARMIJO: I believe I asked Mr. Castle
20 yesterday if the AUSAs who are under subpoena to
21 testify, if they are still planning on calling them.
22 He said "No." So at this point, I would ask that
23 they be released from their subpoenas.

24 THE COURT: Is that acceptable, Mr.
25 Castle? Anybody have any objection?

1 MR. CASTLE: Yes. Although we might call
2 Ms. Armijo.

3 MS. ARMIJO: No, I haven't been
4 subpoenaed.

5 THE COURT: Mr. Castellano, it looked like
6 you were getting up. Did you have something?

7 MR. CASTELLANO: I was going to say I
8 don't have anything.

9 THE COURT: How about the other
10 defendants?

11 Mr. Benjamin, do you have anything?

12 MR. BENJAMIN: No, Your Honor. I'm just
13 moving slowly.

14 THE COURT: Mr. Cooper, anything?

15 MR. COOPER: Just getting ready to get
16 dressed, Judge. Get ready for the jury.

17 THE COURT: Ms. Harbour-Valdez, please
18 accept our sympathy to you on the loss of your aunt.
19 That's one of the hard things about being a trial
20 lawyer. Life goes on, and you're in the middle of
21 these. So we send our sympathy to you, and I know
22 everybody else in the room does, too.

23 MS. HARBOUR-VALDEZ: Thank you. I
24 appreciate it.

25 THE COURT: We did file this morning. I

1 apologize. I told you I filed them yesterday, but
2 we just had a glitch at our end. But we did file my
3 marked-up set of jury instructions. I am going
4 through those. My legal assistant is typing those
5 up right this minute, so we'll see how far she gets
6 on getting a clean set. I'm going to continue to
7 work on them a little bit this morning. I'm about
8 at the indictment portion of it, so about
9 instruction number 20 on the filed set.

10 So I may not file a separate set, so there
11 may be a few changes, mostly in the footnotes and
12 stuff like that, in that very middle section. But
13 most of it, you'll be able to see just from my
14 handwritten comments. On the first 20, you'll see
15 exactly what I've changed. But I'll try, at the end
16 of the day, to give you exact notes so you don't
17 have to re-read anything before or after, if you
18 don't want to.

19 All rise.

20 (The jury entered the courtroom.)

21 THE COURT: Well, thank you, ladies and
22 gentlemen. I appreciate you being back and ready to
23 go on time. You've been very, very good about that.
24 We appreciate it. Ms. Bean tells me it's going to
25 be 98 today, so I guess there is some advantages to

1 having an indoor job, right? So this may be one of
2 them.

3 We did sort of reload your snacks and
4 things over the weekend. We tried to sort of guess
5 what you're eating, what you're not eating, so tell
6 Ms. Bevel. We're here to serve you, so if you don't
7 like what you're getting, tell us, and we'll try our
8 best to accommodate that. So let us know what you
9 need, because you're spending a lot of time with us,
10 and we want to make sure that you're comfortable and
11 well treated back there.

12 Mr. Lucero, you may be seated, and I'll
13 just remind you that you're still under oath.

14 All right. Mr. Castellano, do you have
15 more direct that you wish to conduct?

16 MR. CASTELLANO: Yes, Your Honor. Thank
17 you.

18 THE COURT: Mr. Castellano.

19 LEROY LUCERO,
20 after having been previously duly sworn under
21 oath, was questioned, and continued testifying
22 as follows:

23 CONTINUED DIRECT EXAMINATION

24 BY MR. CASTELLANO:

25 Q. Good morning, Mr. Lucero.

1 A. Good morning.

2 Q. A few more areas I want to cover with you.
3 The first is, before Frank Castillo was murdered,
4 and before you left the facility, what was Edward
5 Troup's standing within the gang?

6 A. He was not in good terms, but he wasn't in
7 bad terms.

8 Q. And had he been in trouble for what I'll
9 refer to as a failed mission?

10 A. Yes, sir.

11 Q. And what happened? Was he supposed to
12 assault somebody?

13 A. Yes. There was an LC that drove up, I
14 guess, and he was supposed to get him. And that LC
15 turned around and got him, instead, so another
16 brother had to jump in. And he was kind of pissed
17 off about that because he got locked up for it.

18 Q. And after the Castillo murder, what was
19 Mr. Troup's standing with the gang?

20 A. He was good.

21 Q. He was better after the Castillo murder?

22 A. He cleaned up his base.

23 Q. I want to ask you about a statement from
24 Joe Lawrence Gallegos regarding somebody named
25 Lawrence, or Lorenzo Torres. Do you remember that

1 statement?

2 A. Yes.

3 Q. Where were you guys when you had the
4 conversation?

5 A. We were at the North in Santa Fe.

6 Q. And what did Joe Gallegos tell you or ask
7 you at that time?

8 A. Well, we were just talking, and he asked
9 me if I thought Lorenzo would snitch.

10 Q. And did you know what he was talking about
11 when he said that?

12 A. I figured, yes.

13 Q. What was he referring to?

14 A. To the murder. I guess Lorenzo, while
15 they were doing the murder, Lorenzo came out of the
16 cell and was right there, and they told him to mind
17 his own fucking --

18 MR. SINDEL: Your Honor, objection. I'm
19 not sure exactly where this is supposed to be coming
20 from. At this point, this is a narrative. We
21 haven't heard anything about who told what happened.

22 THE COURT: All right. Let's limit it to
23 Mr. Joe Gallegos, and then if you want to go beyond
24 that, you can let me know.

25 MR. CASTELLANO: Sure, Your Honor.

1 THE COURT: We'll sort it out.

2 BY MR. CASTELLANO:

3 Q. What did Joe Gallegos tell you about
4 Lorenzo Torres and what he may have seen?

5 A. I guess when they were assaulting him,
6 that Lorenzo was looking at them, and they told him
7 to mind his own business, to get back into this
8 cell. And they just didn't want him to -- he was
9 wondering if he was going to snitch.

10 Q. So he was worried about Lorenzo Torres?

11 A. Yes, sir.

12 MR. CASTELLANO: Pass the witness, Your
13 Honor.

14 THE COURT: Thank you, Mr. Castellano.

15 Mr. Sindel? Mr. Castle? Do you want to
16 go first?

17 CROSS-EXAMINATION

18 BY MR. CASTLE:

19 Q. Good morning, Mr. Lucero.

20 A. Good morning, Mr. Castle.

21 Q. I want to ask you a couple of questions
22 about Angel Munoz.

23 A. Yes, sir.

24 Q. He was supreme leader, the jefe, in 2001;
25 am I right?

1 A. Not just in 2001; he was the jefe.

2 Q. But at the time in 2001, he was the
3 supreme leader of the SNM; correct?

4 A. Yes, sir.

5 Q. And he was in that role until his death in
6 around 2004?

7 A. Yes, sir.

8 Q. I think you already testified that he
9 sponsored you in your admission to the SNM in 1992
10 or '93?

11 A. Yes, sir.

12 Q. So was that -- so you've been part of the
13 SNM for how many years?

14 A. A lot of years, 20-some years.

15 Q. And when did you stop becoming a member of
16 the SNM?

17 A. 2008, 2007.

18 Q. And then after that time period, you did
19 not participate in any SNM activities? Is that what
20 you're indicating?

21 A. No, sir.

22 Q. Are you sure about that?

23 A. Pretty sure.

24 Q. After Angel Munoz's death, you became
25 loyal to Styx Archuleta, Gerald Styx Archuleta;

1 correct?

2 A. Yes, sir.

3 Q. And, in fact, you would write letters to
4 him while you were in custody. Do you recall that?

5 A. I might have. I don't recall.

6 Q. Do you recall writing a letter to him in
7 which you indicated, "Demonstrating loyalty to Styx,
8 willingness to hit people on behalf of Styx"?

9 MR. CASTELLANO: Objection to hearsay,
10 Your Honor.

11 A. No, sir.

12 THE COURT: Well, I think just the title
13 is fine; but if we're going to get statements, then
14 I may have to sustain. Go ahead.

15 BY MR. CASTLE:

16 Q. Well, did you -- were you demonstrating in
17 2005 -- specifically, let's talk about February of
18 2005. Had you been demonstrating loyalty to Styx
19 and a willingness to hit people on behalf of Styx?

20 A. I was loyal to him, yes, sir.

21 Q. And willingness to hit people on behalf of
22 Styx?

23 A. If that's what he called for.

24 Q. Okay. And you would write to him about
25 that, right, to show your loyalty?

1 A. No, sir, I don't recall writing to him. I
2 might have, but I don't remember.

3 Q. Okay.

4 MR. CASTLE: If I may approach the
5 witness?

6 THE COURT: You may.

7 Q. Page 22528. I want to show you this
8 document. Is that your handwriting on the left-hand
9 corner?

10 A. Yes, that's my name.

11 Q. And this is inter-prison mail; is that
12 right?

13 A. Yes.

14 Q. It's addressed to Gerald Archuleta in the
15 North unit?

16 A. Yes.

17 Q. Is this your handwriting?

18 A. Yes, sir.

19 Q. Okay. And do you recall --

20 A. I'm not going to deny that. That is my
21 handwriting.

22 Q. Yes. And you were down for Gerald
23 Archuleta and all that, and that if someone crossed
24 him, that meant they crossed you?

25 A. The onda targets, the giants, not just

1 him.

2 Q. Okay. But your loyalty was -- your
3 loyalty was to Styx, and you had a willingness to
4 hit people on behalf of Styx, correct?

5 A. That's not my writing, right there.

6 Q. Okay.

7 A. You wrote that.

8 Q. I wrote that?

9 A. Or somebody wrote that. But that's not my
10 writing right there, sir.

11 Q. Let's take a look.

12 A. The other writing is. The letter is.

13 Q. Hold on, hold on, hold on.

14 MR. CASTLE: Actually, I'd ask counsel to
15 stipulate that when they provided a copy of this in
16 discovery, the handwriting was there on the
17 document.

18 MR. CASTELLANO: I haven't seen the
19 document. If I can take a look at it?

20 MR. CASTLE: It's in your --

21 MR. CASTELLANO: Your Honor, I can
22 stipulate that somebody wrote that on the document.
23 It's up to the witness to determine whether that's
24 different from the rest of the writing in the rest
25 of the letter.

1 MR. CASTLE: But it was on the letter at
2 the time it was provided in discovery, is what I'm
3 asking?

4 MR. CASTELLANO: We can agree to that,
5 Your Honor.

6 A. You know what I mean? That's not my
7 writing, sir. This is -- sure, the letter in there
8 is my writing. But this out here with
9 "demonstrating," that -- that's not my handwriting,
10 sir.

11 BY MR. CASTLE:

12 Q. Why don't you read the letter, and tell us
13 if your letter demonstrated you had loyalty to Styx
14 and your willingness to hit people on behalf Styx?
15 Why don't you read the letter?

16 A. That's my handwriting. I don't have to
17 read it.

18 Q. Okay. You had a willingness to kill
19 people on behalf of Styx; correct?

20 A. For the onda, yes.

21 Q. And for Styx?

22 A. If he was part of the onda, yes.

23 Q. Well, you didn't know whether he was part
24 of the onda?

25 A. No, he is part of the onda, so it's a

1 bigger picture than that.

2 Q. You were on his tabla, sir, weren't you?

3 A. Excuse me?

4 Q. You were on Styx's tabla?

5 A. Yes, sir.

6 Q. And tabla means if someone is a leader in
7 the gang, they choose their most trusted people to
8 be on their tabla; correct?

9 A. Yes, sir.

10 Q. And before you were ever on Styx's tabla,
11 you were on Angel Munoz's tabla?

12 A. Yes, sir.

13 Q. And that was back in 2000, correct, a year
14 before these murders?

15 A. No, not then.

16 Q. Okay. We'll talk about that here in a
17 minute.

18 A. Okay.

19 Q. Do you recall that -- well, do you recall
20 being interviewed by Agent Roundy on February 10,
21 2011?

22 A. I was interviewed by him, yes.

23 Q. That was the first time you were
24 interviewed by the agents. Do you recall that?

25 A. Yes, sir. I don't remember the exact

1 date; but yes, I was interviewed by him.

2 Q. Let's just call it the first time you were
3 interviewed. Okay? And I'm referring to page 653.
4 Do you recall telling the FBI agents that in 1999 or
5 2000, that the SNM leaders organized a panel or
6 tabla and that you were on it?

7 A. Yes, sir.

8 Q. And that would have been under Angel
9 Munoz, correct?

10 A. Yes, sir.

11 Q. And you remained on that tabla -- well,
12 actually, do you remember telling them who was on
13 the tabla?

14 A. Yes, sir.

15 Q. And who did you tell them was on the
16 tabla, Angel Munoz's tabla?

17 A. There was --

18 Q. Do you want to take a look? Would that
19 refresh your memory?

20 A. Yes, it would refresh my memory.

21 Q. Have you had an opportunity to look at
22 that?

23 A. Yes.

24 Q. So among the people that you indicated was
25 on Angel Munoz's tabla in 2000, 1999 to 2000, were

1 Michael Zamora, Fernie Hernandez, Juan Mendez, and
2 yourself. Do you recall that?

3 A. Yes, sir.

4 Q. Now, the way it works in the SNM, when
5 there is a supreme leader like Angel Munoz, we've
6 already established he has a tabla, right?

7 A. (Witness nodded.)

8 Q. Is that "Yes"?

9 A. Yes.

10 Q. And they're kind of second in command,
11 correct?

12 A. Yes, sir.

13 Q. And so that tabla, then, can issue orders
14 to kill people or for people to get just beaten up
15 or things of that nature, correct?

16 A. You could bring it to their attention, and
17 they'll vote on it. You just can't make that
18 decision on your own. You have to make the decision
19 amongst the group.

20 Q. Okay. We'll talk about that in a few
21 minutes. Because I think you've done a few hits in
22 your life, right?

23 A. Yes, sir.

24 Q. And they haven't all been voted on by the
25 tabla, right?

1 A. They had to be.

2 Q. Okay.

3 A. They had to be.

4 Q. We'll talk about that. But in any event,
5 you were on this tabla that decided whether people
6 would live or die?

7 A. Yes, sir.

8 Q. And that happened, started in 1999, 2000.
9 And when did that end? When did you get kicked off?
10 Did you ever get kicked off the tabla?

11 A. No. I just stepped down.

12 Q. And that would have been when?

13 A. When I went to the feds in 2007, or 2006.

14 Q. So you were among the very highest of
15 leaders in the SNM between 1990 and 2000, until you
16 left to go to the feds in 2006, is that right?

17 A. Yes, sir.

18 Q. And the only thing that changed was that
19 at one point Angel Munoz stopped being the head
20 leader because he died, and Styx Archuleta took
21 over; is that correct?

22 A. Well, there was other leaders.

23 Q. Well, when you were on the tabla, you went
24 from the tabla of Angel Munoz to the tabla of Styx
25 Archuleta?

1 A. That tabla was organized for the area that
2 we were around. You know, you had other facilities
3 where other people had say-so in it.

4 Q. I understand. But I'm talking about as
5 the supreme leader, the jefe --

6 A. I know what you're saying.

7 Q. -- of the SNM, it got passed down from
8 Angel Munoz to Styx Archuleta, correct?

9 A. Yes.

10 Q. And you went from being on Angel Munoz's
11 tabla to being on Styx's tabla?

12 A. Yes, sir.

13 Q. Now, as part of being in that tabla, you
14 participated in issuing what's called a green light
15 on Bernalillo County Sheriff Darren White?

16 A. No, sir. I had nothing to do with that,
17 sir.

18 Q. Well, do you recall once again --

19 A. That never crossed us. That never crossed
20 my lap. I've never had that discussion before.

21 Q. Let's talk about a discussion you had with
22 the FBI on May 31, 2011.

23 MR. CASTLE: Page 2703, Counsel.

24 A. All right.

25 Q. Do you recall what you said to the FBI on

1 that day is that the murder or the green light on
2 Bernalillo County Sheriff Darren White was discussed
3 among the tabla members? Do you recall telling them
4 that?

5 A. Yeah.

6 Q. And you were part of the tabla, correct?

7 A. But I wasn't there when that was being
8 discussed.

9 Q. Okay. So you missed that meeting?

10 A. I missed that meeting.

11 Q. So somehow you found out about it?

12 A. Yes.

13 Q. And you stopped it, right?

14 A. No.

15 Q. Of course, not.

16 A. It was out of my hands.

17 Q. It was out of your hands? And that green
18 light remains to this day?

19 A. I don't know what's on today.

20 Q. Well, do you recall telling the FBI that
21 the green light on White remains to this day?

22 A. I didn't say that.

23 Q. Okay. Let's take a look. Would it
24 refresh your memory if I showed you the page?

25 A. I dropped out in 2007, so I don't know

1 what's active and what's good nowadays, sir.

2 Q. Sir, you're going to have an opportunity
3 to with the Government to explain away anything you
4 want to. Okay? I'm asking the question: Did you
5 tell the FBI that the green light that was
6 authorized by the tabla that you sat on, against a
7 sheriff in New Mexico, remains to this day?

8 A. I can't say that, because I don't know if
9 it's there. I'm not active. I don't know what's
10 good today or tomorrow. I don't have no involvement
11 with that gang no more.

12 Q. Let me show you --

13 MR. CASTELLANO: Your Honor?

14 THE COURT: Mr. Castellano?

15 MR. CASTELLANO: I'll object, Your Honor.
16 He's not refreshing recollection. The witness has
17 said he doesn't know. That's different from
18 refreshing recollection.

19 THE COURT: Well, I think it's
20 sufficiently confusing, I'm going to allow him to
21 show him the document, and then maybe we can move
22 on.

23 A. As of that time, sir --

24 BY MR. CASTLE:

25 Q. Okay. As of 2011 --

1 A. Can I answer the question?

2 Q. I haven't asked one yet, sir.

3 A. But you asked a question --

4 Q. Stop. The way this works is, I ask a
5 question, and you answer. It makes it go a lot
6 quicker.

7 In 2011, at least as of that time, you
8 claimed that the issue with White, meaning the green
9 light, was discussed amongst the tabla members, and
10 the green light on White remains, correct?

11 A. At that time, yes. As of 2011. I don't
12 know what's going on now.

13 Q. Oh.

14 A. I'm not an active member.

15 Q. And you haven't been since 2007, 2008,
16 right?

17 A. Yes, sir.

18 Q. That's what you testified?

19 A. Since I left the state and went to the
20 feds.

21 Q. I was going to do this later but let's
22 just do it now. You began cooperating in 2011,
23 correct?

24 A. Yes, sir, I think 2011.

25 Q. And you cooperated in and made various

1 statements over the next year or so, right? Do you
2 recall that? With Agent Roundy?

3 A. Yes, sir.

4 Q. And then in 2012, your cooperation
5 stopped. They weren't -- you weren't having any
6 more interviews, they weren't coming by and talking
7 to you, and things of that nature. Do you recall
8 that?

9 A. Yes, sir.

10 Q. And then it didn't pick up again until
11 this year, when they were preparing for trial; is
12 that right?

13 A. Yes, sir.

14 Q. I want to talk to you about something that
15 happened May 2nd of 2012. Okay?

16 Do you remember an individual -- do you
17 recall writing a letter to an individual by the name
18 of Jamie Yarra, a/k/a Piaso?

19 A. I wrote him a few times.

20 Q. And I know dates are hard, but this would
21 have been -- what happened was, you wrote a letter
22 to him, and the FBI intercepted it, and then Agent
23 Roundy came and got you on the phone and started
24 talking to you about it. Do you remember which
25 letter we're talking about now?

1 A. No, sir.

2 Q. Okay. This would have been five years
3 after you said that you left the SNM. Okay?

4 A. Okay.

5 Q. So I want to show you the letter. I'm
6 going to ask you some questions about this. Okay?

7 On May 6th you wrote a letter. We'll show
8 it here. You titled -- that's your handwriting,
9 right?

10 A. Yes, sir.

11 Q. And it's a letter addressed to -- you say
12 the word "Pie," like a piece of pie, like a piece of
13 cake, right?

14 A. (The witness nodded.)

15 Q. You have to say it out loud.

16 A. Yes, sir.

17 Q. But it really wasn't to somebody -- well,
18 it wasn't to Pie; it was to somebody by the name of
19 Jamie Yarra, Piaso, correct?

20 A. Yes, sir.

21 Q. And you signed it "Siempre con respecto
22 PTV"?

23 A. P2FO.

24 Q. P2FO?

25 A. Yeah.

1 Q. Okay. So that's your letter, right?

2 A. Yes, sir.

3 MR. CASTLE: I'm going to move for its
4 admission, Your Honor. Let me see if I have an
5 exhibit number.

6 MR. CASTELLANO: I'll object to hearsay,
7 Your Honor.

8 THE COURT: I think probably you can mark
9 it as an exhibit, but I'm not going to admit it.

10 MR. CASTLE: Well, Your Honor, I think
11 it's the same as the letter they sent to Joe
12 Gallegos. It shows what his current mental state
13 was. I'm offering it to show his mental state in
14 2012. He's already said he left the SNM before
15 that. I'm showing this to show what his mental
16 state was in 2012, not for anything other than that.

17 THE COURT: Well, if you want to give me a
18 copy, I can take a look at it, but I'm not going to
19 admit it at the present time.

20 BY MR. CASTLE:

21 Q. Why did you write a letter in code?

22 A. When I was working my debrief with Agent
23 Roundy and the SIS from the BOP, what I was doing --
24 they thought I was still active, so I was gathering
25 information for them, so I had to act like I was

1 active, still down with the gang. They knew I was
2 out. SIS knew I was out, and the FBI knew I was
3 out.

4 Q. Well, do you --

5 A. Every letter that I sent out, they knew
6 about it. I knew they were monitoring my letters.

7 Q. Okay. So let me just talk to you about
8 what you told this person. Well, this wasn't handed
9 to the FBI; they intercepted it, correct?

10 A. All my letters went straight to SIS. All
11 my letters went -- every letter that came in and
12 went out, went straight to SIS, STG.

13 Q. Well, not ones that you do in code, so
14 that no one knows they're coming --

15 A. They knew about that.

16 Q. Let me finish. That the FBI or SIS
17 wouldn't know it came from you, right?

18 A. In code?

19 Q. Well, do you recall that this was a letter
20 that Theresa Zarski from the SIS, the Lewisburg
21 federal penitentiary, intercepted and then never let
22 it get out to Mr. Yarra? Do you recall that?

23 A. No.

24 Q. Well, let me ask you about some things.
25 Okay? What does the word "pedo" mean, P-E-D-O?

1 A. Depends on what you're talking about.

2 Q. Well, what does it normally mean to you?

3 Putting in the work?

4 A. Pedo?

5 Q. Yeah.

6 A. Fart.

7 Q. Okay. Well, then let's see what this
8 sentence means: "I've done the pedo, but never got
9 caught."

10 So are you saying what you might have been
11 telling Mr. Yarra is you did a fart and never got
12 caught doing it?

13 A. I guess so. That's what that means.

14 Q. Okay. Well, let's go on.

15 "Chulo or whoever else wants to turn shit,
16 they can run their mouth."

17 So is this like -- well, are you saying
18 that you're worried that Chulo or other people are
19 going to run their mouth about you farting?

20 MR. CASTELLANO: Your Honor, I'm going to
21 object. He's just reading from the letter, so it's
22 hearsay.

23 MR. CASTLE: It's not offered for the
24 truth of the matter, Your Honor.

25 THE COURT: Well, don't just read from the

1 letter.

2 MR. CASTLE: Well, Your Honor, I think
3 this is a confession as to --

4 THE COURT: If you want to give me a copy
5 of the letter --

6 MR. CASTLE: I'm sorry?

7 THE COURT: -- I will look at it.
8 Otherwise, quit reading from it, and move on. And
9 we can come back to it after I've looked at the
10 letter.

11 A. Like I said, Mr. Castle, I --

12 BY MR. CASTLE:

13 Q. There is no question right now. There is
14 no question. Okay?

15 While you were in the federal
16 penitentiary, you had a problem with an individual
17 by the name of Frankie Gallegos. Do you recall
18 that?

19 A. Yes, sir.

20 Q. And you tried to -- well, you got in a
21 fight, right?

22 A. Yes, sir.

23 Q. Did you give him a hotshot?

24 A. A hotshot?

25 Q. No?

1 A. No, sir.

2 Q. Do you recall that after that fight, that
3 you wanted to stab him in the neck? This would have
4 been after you left. This would have been in 2012,
5 after you say you supposedly left the SNM, that your
6 goal was to stab Frankie Gallegos in the neck?

7 A. I was in prison at that time, sir. You
8 know, I had to survive. Me and him had problems,
9 you know. It doesn't have nothing to do with that.
10 That's what happens in the prison.

11 Q. Okay.

12 A. You know, being a gang member or not being
13 a gang member, it's violence. That's all that place
14 is.

15 Q. So you're not denying that you --

16 A. I'm not admitting it, either.

17 Q. Okay. Well, then, if you're not admitting
18 it, let's look at the evidence of it. Okay?

19 A. Okay.

20 Q. Do you recall stating in a letter to Jamie
21 Yarra --

22 A. I might have said that.

23 Q. Okay, let me finish the question, sir.
24 The way this works is, she can't write down both of
25 us at the same time.

1 A. Okay.

2 Q. So do you recall saying to him --

3 MR. CASTELLANO: And I'll object as to
4 hearsay again, Your Honor.

5 MR. CASTLE: That's not hearsay. It's an
6 inconsistent statement, Your Honor.

7 THE COURT: Well, what statement are you
8 trying to impeach, that he's made?

9 MR. CASTLE: Well, I could give the Court
10 the letter.

11 THE COURT: Well, give me that, but tell
12 me what the statement is you're trying to impeach
13 now.

14 MR. CASTLE: I asked him if he wanted to
15 stab Mr. Gallegos in the neck, and he said "No."

16 THE COURT: All right.

17 A. Now, I don't.

18 MR. CASTLE: All right, Judge. If I can
19 bring the Court's attention to that, there are three
20 pages to the letter. If I could approach? It's at
21 the top of page -- actually, the top of page 2 of
22 the actual handwritten letter.

23 THE COURT: Why don't -- I guess I'm
24 confused. Are you trying to impeach him with this
25 letter again?

1 MR. CASTLE: Yes. That's a statement by
2 him to someone else, in which he says an
3 inconsistent statement with his previous testimony.

4 THE COURT: All right. Well, okay. On
5 his question of -- I asked him -- you asked him
6 whether he wanted to stab Mr. Gallegos in the neck,
7 and he answered, "No." Now, what's your question?

8 MR. CASTLE: That he stated he did want
9 to, in this previous statement --

10 THE COURT: All right. You can ask that
11 question.

12 BY MR. CASTLE:

13 Q. Do you recall in a statement you made,
14 which was in the form of a letter to Mr. Jamie
15 Yarra, a/k/a Piaso: "Next time, knife shot right to
16 the neck, ha, ha"?

17 A. At that time, I might have said that. I
18 did say that, because I was mad at that time. Now I
19 don't want to stab him in the neck. I don't want
20 nothing to do with the guy. I don't have a problem
21 with the guy. But at that time, sir, I was angry.
22 Yes, I did say that. That was then, sir. It's not
23 now.

24 From out of anger, I might have said it.
25 I did say it out of anger. But that was a long time

1 ago, sir. That doesn't have nothing to do with the
2 gang or nothing.

3 Q. Stop.

4 THE COURT: On this letter, do you want to
5 have somebody highlight what you're trying to get in
6 for state of mind?

7 MR. CASTLE: Yes, Your Honor. I'm going
8 to go to something else now, and I'll do that later
9 in my exam.

10 THE COURT: All right. Why don't I hand
11 it back, though, and somebody highlight for me what
12 you're trying to get in for state of mind and then
13 I'll review it.

14 MR. CASTLE: I have to apologize. It's
15 going to be later in my exam, so it's not anyone's
16 fault other than my own.

17 BY MR. CASTLE:

18 Q. As far as Angel -- let's go back to Angel
19 Munoz for a minute. Okay? Because you were one of
20 his trusted confidants, right?

21 A. I was.

22 Q. Until his death, right?

23 A. Yes, sir.

24 Q. You never decided to leave Angel; Angel
25 left you in this world, right?

1 A. I left the onda.

2 Q. You were aware of a number of murders that
3 Angel had ordered?

4 A. No, sir.

5 Q. Well, do you know an individual by the
6 name of Manuel Maldonado, also known as Chaparro?

7 A. Yes, sir.

8 Q. Okay. And you talked to the FBI about
9 Mr. Maldonado, right?

10 A. Yes, sir.

11 Q. And about Angel?

12 A. Yes, sir.

13 Q. Now, Angel ordered the murder of Manuel
14 Maldonado, correct?

15 A. To my recollection, yes.

16 Q. And he also ordered someone by the name of
17 Leroy Torres to be murdered, right?

18 A. No, sir.

19 Q. Well, Maldonado and Torres formed a group,
20 a subgroup of the SNM called the All Stars; is that
21 right?

22 A. That's what they're saying.

23 Q. Well, I think you've said that, right? I
24 mean, you're aware of that? You were aware of that
25 at the time, right?

1 A. Yes, sir.

2 Q. They were a break-away group from the main
3 group?

4 A. Yes.

5 Q. Of the SNM, correct?

6 A. Yes, sir.

7 Q. And you indicated that he ordered the
8 murder of Manuel Maldonado. Just briefly, can you
9 tell us where that murder happened, if you know?

10 A. It never happened.

11 Q. It never happened? Was it attempted? Did
12 someone stab him and try to kill him?

13 A. I think so.

14 Q. And where was that at?

15 A. I think at the North facility.

16 Q. Okay. And where was Angel at the time?
17 He was at a different prison, right?

18 A. I don't remember.

19 Q. Although not successful in killing Mr.
20 Maldonado, SNM members that were loyal to Angel
21 attempted to do so, and stabbed him several times?
22 Is that your understanding?

23 A. Yes, sir.

24 Q. Now, you were ordered by Angel Munoz to
25 kill the other leader of the All Stars by the name

1 of Leroy Torres. Do you recall that?

2 A. No, sir.

3 Q. Well, let's look at an interview again.

4 MR. CASTELLANO: Can we have clarification
5 of whether he was ordered, or whether he stabbed
6 Leroy Torres. I think he said he stabbed him,
7 yesterday.

8 THE COURT: I think the question was
9 ordered, correct?

10 MR. CASTLE: Yes.

11 THE COURT: So we'll let the question
12 stand.

13 BY MR. CASTLE:

14 Q. Page 645. Do you recall on February 10,
15 2011 -- once again, that's the first meeting that
16 you had, right? Do you recall telling them that
17 word, in the form of an order, came down from the
18 leaders that you were to introduce Torres to Little
19 Mama? Do you recall that?

20 A. Yes, sir.

21 Q. And what's Little Mama?

22 A. It was a code amongst a few of us for a
23 knife.

24 Q. Okay. So you were supposed to introduce
25 him to a knife, meaning --

1 A. Stab him.

2 Q. Stab him?

3 A. Yes, sir.

4 Q. Okay. Eventually, you did it? It was
5 supposed to be done by several people, right?

6 A. Yes, sir.

7 Q. Instead, you took it on yourself to stab
8 him, yourself, multiple times, correct?

9 A. Yes, sir.

10 Q. And that was because Angel wanted it done?

11 A. Angel never called that.

12 Q. Angel didn't want to get rid of one of the
13 leaders of the break-away group?

14 A. What Angel had with Chaparro was them. It
15 didn't have nothing to do with the All Stars.

16 Q. Well, Chaparro is not Torres, right?
17 Those are two different people.

18 Okay. So who ordered the murder of
19 Torres?

20 A. That came from the North. I don't know
21 who.

22 Q. You don't know who?

23 A. Looking back on it, I don't remember.

24 Q. So where was that at?

25 A. Where was what at?

1 Q. Where was the stabbing at?

2 A. The South facility.

3 Q. Who was the keyholder in the South
4 facility at that time?

5 A. He was.

6 Q. Who was?

7 A. Leroy Torres.

8 Q. So this would be an example where the head
9 of a particular facility does an order for a murder
10 to happen, right? Because he wouldn't have ordered
11 his own murder, right?

12 A. No.

13 Q. So that was instructions that came down
14 from the North, meaning PNM North?

15 A. Yes, sir.

16 Q. And you carried it out; correct?

17 A. Yes, sir.

18 Q. Now, you weren't successful in killing
19 him, right?

20 A. No, sir.

21 Q. But it wasn't for want of trying, right?
22 You tried hard to kill him?

23 A. I tried.

24 Q. Where did you stab him?

25 A. All over.

1 Q. Okay. Well, can you tell us generally?

2 A. Upper body.

3 Q. Upper body?

4 A. Yes, sir.

5 Q. And how many times?

6 A. I don't recall.

7 Q. Too many to count?

8 A. No, I just don't remember how many.

9 Q. Okay. Was it once?

10 A. It was more than once.

11 Q. Was this the first time you'd stabbed

12 another human being?

13 A. No, sir.

14 Q. Can you estimate how many times you'd

15 killed or stabbed before?

16 A. I don't recall.

17 Q. Too many to count?

18 A. No, I just don't keep track.

19 Q. What kind of weapon did you use?

20 A. A shank.

21 Q. Made out of what?

22 A. Metal.

23 Q. Can you show the jury -- describe it for

24 the jury?

25 A. I can't make you one.

1 Q. What's that?

2 A. I can't make you one.

3 Q. No, but you can describe things with your
4 language.

5 A. Just a piece of metal.

6 Q. Okay.

7 A. Sharpen it down.

8 Q. Where did you get the metal from?

9 A. I don't remember.

10 Q. Can you show us how long the piece of
11 metal was?

12 A. It's been so long, I don't remember.

13 Q. It's not something that stuck in your
14 mind?

15 A. No, I just try not to think about that.
16 That's the past.

17 Q. You're also aware -- and you talked to the
18 FBI about this, but you're aware that Angel Munoz
19 ordered the murder of a person called Ronald Baca?
20 Do you recall that?

21 A. Yes, sir.

22 Q. And without going into too many details,
23 the individuals that were ordered to do that by
24 Angel Munoz did in fact attempt to do that, right?

25 A. I guess. I don't know.

1 Q. You do remember that the murder was
2 ordered by Angel Munoz, correct?

3 A. At that time, Angel, he ordered a lot of
4 things. What, I don't know. I don't know exactly
5 what he ordered.

6 Q. Well, this was in '99 or 2000, when you
7 were on his tabla. Do you recall?

8 A. A lot of times, I didn't know. I didn't
9 know where he was at or what he was doing.

10 Q. Let's break this down. In '99 or 2000,
11 you were on his tabla, right? "Yes" or "No"?

12 A. In '99? Yes, sir.

13 Q. Okay. And at that time, you were aware
14 that Angel Munoz approved the murder of Ronald Baca?
15 "Yes" or "No"?

16 A. No.

17 Q. Do you recall, in an interview with the
18 FBI on February 10, 2011, stating that the murder of
19 Ronald Baca was an SNM hit approved by Angel Munoz?
20 Do you recall that?

21 A. Yes, sir.

22 Q. Now, you've claimed today you don't know
23 whether it was carried out or not, right?

24 A. I don't.

25 Q. Well, do you recall, again in that same

1 interview, indicating that it was carried out by
2 John JJ DeLuna, Brian Rascon a/k/a Fuzz, and another
3 SNM member unknown to the CHS? Do you recall
4 telling them that?

5 A. Now that you said that, yes, I do recall.

6 Q. Okay. And Brian Rascon is a person you
7 have -- Brian Rascon is an SNM member, right?

8 A. Yes, sir.

9 Q. And were you ever aware if he left the SNM
10 or not?

11 A. I'm not too sure. I'm not up to date with
12 who is active, who is not active. I'm a drop-out.
13 I quit.

14 Q. Well, in 2012 do you recall making phone
15 calls to Brian Rascon?

16 A. Yes, with the FBI.

17 Q. Okay.

18 A. The FBI knew about that.

19 Q. There is a report of you making phone
20 calls to Brian Rascon somewhere?

21 A. Sure. They were monitored from the pen in
22 Lewisburg.

23 MR. CASTLE: Your Honor, we have not been
24 provided with any such calls. If they exist, we'd
25 ask for them to be provided to us in the next day.

1 Does the Government object?

2 MR. CASTELLANO: We do, Your Honor. I
3 don't know about the calls or that we have them in
4 our possession. I think defense counsel subpoenaed
5 Bureau of Prisons, if I'm not mistaken.

6 MR. CASTLE: Yes. But none of this is
7 there, Your Honor. That's what I'm trying to get
8 at.

9 BY MR. CASTLE:

10 Q. Actually, let me just go on.

11 A. All phone calls are monitored through the
12 BOP. Any phone call that you make is monitored.

13 Q. So are you saying that the FBI set you up
14 to make a phone call to Brian --

15 A. No.

16 Q. Let me finish. -- with Brian Rascon?

17 A. No, they knew I was calling him.

18 Q. And the reason you were calling him is,
19 you were still working the S? You were still in the
20 S in 2012?

21 A. No, sir.

22 Q. Bottom line is that if Angel Munoz orders
23 someone to be murdered, at least during the time
24 when he was the supreme jefe, if you were in the S,
25 it was your obligation to carry it out?

1 A. Yes, sir.

2 Q. And that included the time period of 2001?

3 A. Yes, sir.

4 Q. And, in fact, you had done that, at least
5 attempted to do it, at least on one occasion?

6 A. Yes, sir.

7 Q. How many occasions total have you tried to
8 stab people because Angel Munoz told you to?

9 A. None.

10 Q. None?

11 A. None.

12 Q. How about Angel Munoz, when he convened
13 the tabla, and you were there on occasions when you
14 and the other tabla members would order some other
15 people to go commit stabbings and killings?

16 A. We made that decision amongst ourselves at
17 that time. If Angel wasn't there, we would use our
18 better judgment for it.

19 Q. Okay. And then you'd set out to pick
20 people to do the murders?

21 A. Yes, sir.

22 Q. Okay. Now, in late 2000 you arrived at
23 Southern New Mexico Correctional Facility. Do you
24 recall that?

25 A. Yes, sir.

1 Q. And prior to that, you were at Central New
2 Mexico Correctional Facility?

3 A. I was coming back on a parole violation.

4 Q. So you were at Central New Mexico
5 Correctional Facility, correct?

6 A. Yes, sir.

7 Q. And you were the shot-caller at that
8 facility, right?

9 A. No. I was in segregation. The only
10 shot-calling I was doing was in my cell.

11 Q. Occasionally, when you're an inmate, do
12 you get called in by the STIU officers, or STG,
13 which was their predecessors, and questioned about
14 your gang membership and things like that? Do you
15 recall that?

16 A. Yes, sir.

17 Q. And do you recall that -- I'll give you a
18 date -- January 18, 2000, you were brought in by
19 the -- I think it would be STG at that point, and
20 asked about your membership in the SNM. Do you
21 recall that?

22 A. Every time I went through there, they have
23 asked that question. That's one of the main
24 questions they asked, if you're still active or
25 nonactive.

1 Q. And do you recall telling them on January
2 18, 2000, that you were in charge of the general
3 population at Central New Mexico Correctional
4 Facility?

5 A. No, sir, I don't recall.

6 Q. You don't recall? If I showed you a
7 document, would it refresh your memory?

8 A. Yes, sir.

9 Q. Page 22505.

10 A. What year was this?

11 Q. Let's just look. January 18, 2000. Just
12 read this to yourself. Let me know when you're
13 done. Did you have an opportunity to read that?

14 A. Yes, sir.

15 Q. On January 18th of 2000, which would have
16 been 14 months before the murders at Southern, you
17 went in and interviewed with an STG officer by the
18 name of Jose Romero, and you admitted to being in
19 the SNM, and that you were in charge of the general
20 population at Central New Mexico Correctional
21 Facility, correct?

22 A. Well, he might have misread who wrote
23 that, because I did self-admit that I was from the
24 syndicate, but I never told him that I was in charge
25 of population. I was in the hole.

1 Q. So he got that wrong?

2 A. Yes, he did. I didn't write that.

3 Q. Absolutely got it wrong?

4 A. Yes, sir. I did self-admit.

5 Q. Now, are you saying that if you're in the
6 hole at a facility, in a lockdown area, you can't be
7 in charge of the facility?

8 A. Pretty much, no. It's pretty hard.

9 Q. Okay. So the officer got it wrong?

10 A. Yes, sir.

11 Q. I mean, it's really important for these --
12 I mean, these STG officers that are investigating
13 things, it's really -- they let you know it's very
14 important for them to know who the leaders are,
15 correct?

16 A. Yes.

17 Q. And I think you said yesterday that peace
18 and tranquility kind of took over in 2001 when they
19 came in and talked to you, right?

20 A. Yes, sir.

21 Q. But they got it wrong that you were the
22 leader of Central?

23 A. Of Central, yes, sir.

24 Q. In late 2000 when you arrived at Southern
25 New Mexico Correctional Facility, I think you said

1 that Lino Giron was the shot-caller there, correct?

2 A. He was one of the most respected brothers
3 there at the time, yes.

4 Q. And when you were at Southern New Mexico
5 Correctional Facility, an inmate by the name of Big
6 Jake -- that's his nickname, Jake -- Manuel Jacob
7 Armijo arrived there at the facility. Do you recall
8 that?

9 A. I made a mistake on that.

10 Q. Yeah?

11 A. He wasn't there.

12 Q. You talked really quickly about that
13 yesterday, right, saying you'd made a mistake?

14 A. Yeah, I did make a mistake. I don't
15 remember. I've done time with the guy so, you know,
16 for me to remember every time we've met or ran into
17 each other, it's kind of hard to remember.

18 Q. Let's see if we can get up Mr. Giron's --
19 I'm sorry -- Mr. Lucero's location history, which I
20 believe is Exhibit 113, and put it up side by side
21 with Mr. Armijo's location history.

22 Okay. Can you see that on the monitor?

23 A. Yes, sir.

24 Q. I want you to look here, down here. You
25 indicated you were discharged from the Southern

1 facility on March 23rd. Do you recall testifying to
2 that?

3 A. Yes, sir.

4 Q. So this period right here, this period
5 here would have been while you were in Southern New
6 Mexico Correctional Facility? Do you see that?

7 A. Yes, sir.

8 Q. So you would have been in the same unit,
9 the yellow pod, from at least December 14, 2000, to
10 March 23, 2001? Do you see that?

11 A. Yes, sir.

12 Q. Now, I don't know if this document goes
13 any further. If we can scroll to see if there is
14 page 2 on that one? I'm sorry. Exhibit 113, if we
15 can go to page 2. I apologize. Page 2 of Leroy
16 Lucero's location history.

17 It looks like you actually arrived on
18 February 6th of 2000; is that right?

19 A. Where is that?

20 Q. I'm sorry. December 6th of 2000. Do you
21 see that, where I drew the line?

22 A. Where you underlined it?

23 Q. Yeah. December 6, 2000, you went to
24 Southern Main? Do you see that?

25 A. Yes, sir.

1 Q. And then you were in that kind of
2 orientation from December 6th to December 14th?
3 Does that make sense?

4 A. Yes.

5 Q. So if we could go back to page 1 on that.
6 Now, Mr. Armijo's, which is the
7 document -- we can stay on page 2. Do you see he
8 arrived on January 18th of 2001. Do you see that?

9 A. Yes, sir.

10 Q. And he went in the unit SL2G, which you
11 notice is that kind of orientation unit? Do you see
12 that?

13 A. CL2G?

14 Q. Yeah.

15 A. Yes.

16 Q. SL2G, I think. And then he goes into
17 general population on January 23rd until February
18 2nd of 2001? Do you see that?

19 A. Correct.

20 Q. So, in fact, Mr. Jake Armijo was at
21 Southern at the same time you were, for a short
22 period of time?

23 A. Yes, sir.

24 Q. Now, when he was there -- when Mr. Jake
25 Armijo was there, do you recall that he came and

1 talked to you? Do you recall that?

2 A. Which time? I was with him a couple of
3 times at the facility.

4 Q. We're talking 2001. We're talking about
5 the time in the couple of months before the murders
6 of Garza and Castillo. Okay? That's the time
7 period we're focusing on. Okay?

8 Do you recall during that time when Mr.
9 Armijo was with you at Southern, that he came and
10 talked to you?

11 A. Every time I ran into him, I talked to
12 him.

13 Q. Okay. And this is a time I want to talk a
14 little more specifically. Do you recall that he
15 came and told you that he had orders --

16 MR. CASTELLANO: Objection; calls for
17 hearsay.

18 MR. CASTLE: No, Your Honor. I asked Mr.
19 Armijo about this.

20 THE COURT: Hold on. Hold on. If it's an
21 order, you can state the order. If it goes beyond
22 that, then we may need to look at it here. Go
23 ahead.

24 BY MR. CASTLE:

25 Q. Do you recall that Mr. Armijo came and

1 told you he had orders to have Castillo and Garza
2 killed?

3 MR. CASTELLANO: It's still hearsay.
4 That's not an order.

5 THE COURT: I don't think that's an order,
6 either.

7 MR. CASTLE: Your Honor, I asked Mr.
8 Armijo about it. He denied it. And because of
9 that, I'm allowed under 801 to bring up a prior
10 inconsistent statement he made to someone else. And
11 so it is admissible under that. And also, yeah,
12 under 801.

13 THE COURT: All right. I'll allow the
14 question, but the jury can't consider this for the
15 truth of the matter. It's only to consider whether
16 Mr. Armijo was truthful on the stand. That's the
17 purpose of this coming in. So you can't consider
18 this for the truth of the matter; only for
19 determining whether Mr. Armijo was truthful when he
20 testified before you.

21 Go ahead, Mr. Castle.

22 BY MR. CASTLE:

23 Q. Do you recall Jake Armijo coming to you
24 and telling you that he had orders to kill Mr. Garza
25 and Mr. Castillo?

1 A. No, sir.

2 Q. Do you recall telling the FBI, on February
3 10th, 2011, at page 15222 -- do you recall talking
4 to the FBI about that discussion with Mr. Armijo?
5 Do you recall that?

6 A. I don't recall that.

7 Q. Do you recall telling them that Mr. Armijo
8 came down and told you he had orders from Angel
9 Munoz for those two individuals to be murdered?

10 A. I might have made a mistake there, you
11 know what I mean? Because like I don't remember
12 dates, like I said earlier, times and dates. But
13 I've never had that conversation with him.

14 Q. Okay. So you may have said that to the
15 FBI; but now, today, when you're testifying --

16 A. I don't --

17 Q. Hold on. -- you're saying that that would
18 have been a mistake, that was something you kind of
19 slipped out and said, and it wasn't true?

20 A. I got mixed up.

21 Q. This year, do you recall meeting with FBI
22 officers and doing a tape-recorded statement with
23 Agent Acee and Agent Nancy Stemo?

24 A. Yes, sir. Like I said, I got mixed up.

25 Q. Hold on. Hold on. Let's just talk about

1 it. Okay? Do you recall telling them, page 52055,
2 specifically, "Jake brought the final say-so, you
3 know what I mean?"

4 Do you recall saying that to them?

5 A. I do remember saying that.

6 Q. And that was in reference to the murders
7 of these two men in 2001, right?

8 A. Yes, sir.

9 Q. And you said that, "He got it from Angel
10 Munoz because Angel was Jake's big jefe."

11 Do you recall that?

12 A. Yes, sir.

13 Q. That was just a slip of the tongue when
14 you said somebody ordered someone's murder, and they
15 never did?

16 A. Well, I got it mixed up, you know.

17 Q. So was it someone else that came down with
18 the orders to murder?

19 A. No, sir.

20 Q. Well, Mr. -- I think when we saw the
21 screen, Jake Armijo wasn't there for very long
22 before he got shipped out, right?

23 A. No.

24 Q. And yesterday, you told us some people
25 were shipped out because they were committing

1 assaults and stabbings. Do you remember that?

2 A. Yes, sir.

3 Q. And Mr. Armijo was one of those people,
4 right?

5 A. Might have got shipped out.

6 Q. He got shipped out with Nick Chavez and
7 Lino, right?

8 A. No.

9 Q. Okay. What part of that is wrong?

10 A. He didn't get shipped out with Lino and
11 them.

12 Q. Would you like to look at their two
13 location histories, if we can?

14 A. I don't remember him getting shipped out.

15 Q. Well, you became the leader there in
16 Southern once these folks were shipped out?

17 A. Yes, sir.

18 Q. So you would recall that, right?

19 A. There was a lot of movement going on. Who
20 was coming, who was going, I don't remember exactly
21 who was coming and going.

22 Q. Let's talk about Angel Munoz again. You
23 were aware that Angel Munoz ordered the murder of
24 Felix Martinez, correct?

25 A. Who is that?

1 Q. Animal.

2 A. I heard about that.

3 Q. Okay. You've told the FBI about it,
4 right?

5 A. I heard that it was --

6 MR. CASTELLANO: Objection, Your Honor, as
7 to foundation. It sounds like a hearsay response.

8 MR. CASTLE: Well, I'll ask him some more.

9 THE COURT: All right.

10 MR. CASTLE: Well, actually, it's not
11 offered for hearsay, Your Honor. It's not for the
12 truth of the matter; just that he'd heard about it.

13 THE COURT: Well, what's the relevance of
14 that?

15 MR. CASTLE: Perhaps I could have a few
16 questions to establish that?

17 THE COURT: All right. Go ahead.

18 BY MR. CASTLE:

19 Q. When you had these meetings with Angel
20 Munoz, okay -- and you talked about you'd have the
21 tabla, right? -- you'd have discussions about not
22 only future hits, but hits that had happened,
23 correct?

24 A. I never literally sat there with Angel.
25 He would send word to us. We knew it was coming

1 from him. As us sitting down and discussing it, we
2 never did. He would send word, and he'd say "Yes"
3 or "No." That's it, as simple as that. We didn't
4 question him. We didn't ask nothing. You know, we
5 never sat down literally on a table and discussed
6 it.

7 Q. Okay.

8 A. Because he would call it, and it would
9 have to go. Simple as that.

10 Q. Okay.

11 A. He was the leader.

12 Q. So Angel orders it; it gets done?

13 A. Yes, sir.

14 Q. Nobody else's approval needed?

15 A. Well, we'd discuss it, you know what I
16 mean, amongst us as a group. Yes, if Angel said
17 "Yes," we did it. If Angel wasn't around, I would
18 take --

19 Q. You already answered the question. Let's
20 talk about Jake for a minute. Do you recall that
21 when Jake told you the murders needed to be done,
22 that he told you that he had just gotten off -- just
23 finished talking to Angel?

24 A. No, I don't recall that.

25 Q. Do you recall telling them that at that

1 point, you backed off?

2 A. Backed off of what?

3 Q. Well, let's go to your interview again.

4 Do you recall, again this year, January 17, 2018, a
5 recorded interview with Agent Acee, and you're
6 talking about your discussions with Jake at Southern
7 in 2001, that he said -- you said; I'm sorry, "Jake
8 said he just finished talking to Angel, and they got
9 this, and I backed off"?

10 MR. CASTELLANO: Objection; calls for
11 hearsay.

12 MR. CASTLE: It's inconsistent with his
13 earlier statement, Your Honor, whether he even had a
14 conversation with Big Jake.

15 THE COURT: All right. Again, these can't
16 be considered for the truth; they're for determining
17 whether Mr. Lucero is telling the truth today, so
18 you can consider it for that purpose.

19 Mr. Castle.

20 BY MR. CASTLE:

21 Q. Did you in fact say to Agent Acee, "Jake
22 said he just finished talking to Angel, and they got
23 this, and I backed off?"

24 Do you recall that?

25 A. I remember saying that.

1 Q. So what do you mean by "backed off"?

2 A. Backed off of whatever was going to
3 happen.

4 Q. Okay. So you backed off from being in
5 charge or participating in the murders of Garza and
6 Castillo?

7 A. Yes, sir.

8 Q. Yesterday, you told this jury you didn't
9 know anything about the murders on Castillo and
10 Garza until Billy Garcia got there at the facility.
11 Do you remember saying that?

12 A. No, sir.

13 Q. Well, that wasn't true. You knew about
14 the murders well before Billy Garcia arrived at
15 Southern, because Big Jake told you about it, right?

16 A. No, sir.

17 Q. What's that?

18 A. No, sir.

19 Q. Well, you said you had to back off from
20 killing or participating in the murders of those
21 two. How could you back off two murders you didn't
22 have any idea were going to happen? Do you remember
23 that?

24 A. No, sir.

25 Q. In any event, Big Jake gets moved out

1 pretty quick, right?

2 A. Yes, sir.

3 Q. And then the responsibility to kill Garza
4 and Castillo rested with you?

5 A. No, sir.

6 Q. Let's see when Big Jake left. If we could
7 throw that exhibit back up. What was it?

8 I'm showing you Exhibit 635, the location
9 history for Mr. Jacob Armijo. And do you see that
10 on February 5, 2001, he gets shipped off to PNM?

11 A. Yes, sir.

12 Q. While we're at it, let's look at Lino
13 Giron's and also -- I don't have those on my laptop.

14 So when all these folks -- Lino Giron, Big
15 Jake Armijo, Nick Chavez, they leave -- you're now
16 the head of the SNM at Southern, correct?

17 A. I was one of the older brothers there,
18 yes.

19 Q. So you were the leader?

20 A. Yes, sir.

21 Q. And would you take my word for it that
22 that happened around February 5th of 2001, about a
23 month and a half before the murders?

24 A. I would say that sounds correct.

25 Q. And it was your responsibility to enforce

1 any green lights that were in existence, right?

2 A. Yes, sir.

3 Q. And, in fact, if Mr. -- I think you said
4 you were a friend of Mr. Garza?

5 A. Yes, sir.

6 Q. And if Mr. Garza had messed up, the
7 responsibility to kill him would be you?

8 A. Yes, sir.

9 Q. So from February 5, 2001, till the day you
10 were discharged, it was your responsibility to get
11 these two men killed, correct?

12 A. If it was called upon me to do it, yes.

13 Q. Well, one day before the murders happened,
14 do you recall being approached by another SNM member
15 and being told that you needed to call Angel Munoz?

16 A. Yes, sir.

17 Q. And this person, I guess they were some
18 kind of an emissary or messenger from Angel Munoz;
19 is that right?

20 A. I got word that day, yes, sir.

21 Q. When Angel calls -- or tells you to call
22 him, you call him, right?

23 A. Yes.

24 Q. Because if you don't, there is going to be
25 some severe consequences, right?

1 A. Yes, sir.

2 Q. So you also know that maybe this call
3 isn't something innocent, right?

4 A. It was business.

5 Q. Yeah. Business that might get you in
6 trouble with the law if it was overheard by the
7 machines that were recording there at the prison,
8 right?

9 A. Yes, sir.

10 Q. And that they could identify you by name,
11 right?

12 A. Yes, sir.

13 Q. And so the reason you did the three-way
14 call was so that it wouldn't be on your phone,
15 right, number one?

16 A. Yes, sir.

17 Q. And the reason you called -- so the first
18 call on three-way call is made by an inmate to
19 somebody on the outside, right, like a girlfriend or
20 wife or something like that?

21 A. Yes, sir.

22 Q. And then they place a call to this other
23 person. So that's the three parts, right?

24 A. Yes, sir.

25 Q. So who did you call? I think you said you

1 used Jason Hoster's phone number, right? Or phone,
2 right?

3 A. Yes, sir.

4 Q. Was he an SNM member?

5 A. No, sir.

6 Q. Okay. Because you didn't want to use SNM
7 members because it could kind of come back to you,
8 right?

9 A. No. He had a three-way, so we would use
10 it.

11 Q. Okay. So who did you guys call?

12 A. We called his wife.

13 Q. Okay. And how did his wife, to your
14 knowledge, if you have knowledge of this, how did
15 your wife (sic) know Angel Munoz's phone number?

16 A. They gave me the phone number.

17 Q. Who did?

18 A. The person that brought me that message to
19 call him. To this day, I'm still trying to think
20 who it is. I don't recall who it was. It's been so
21 long.

22 Q. So you can't share the name of that person
23 whatsoever, right?

24 A. I don't remember. I'd be lying if I told
25 you I remember. I don't remember.

1 Q. Or you could be telling us someone who
2 could give us evidence against you?

3 A. No, sir.

4 Q. You can't remember that guy's name?

5 A. I can't remember it. Honestly, I can't.

6 Q. But you can remember Jason Hoster's name?

7 A. He was my buddy.

8 Q. Hold on. Let me finish my question. You
9 can remember Mr. Hoster's name, even though he's not
10 a member of the SNM?

11 A. Yeah. He was my friend. I used to kick
12 it with him all the time.

13 Q. So you make this phone call with Angel
14 Munoz, right?

15 A. Yes, sir.

16 Q. And he's not happy, is he?

17 A. Well, he's not mad, either.

18 Q. Well, he'd already sent down word that
19 these two people were supposed to be killed, and now
20 he was talking to you about that same order,
21 correct?

22 A. Yes, sir.

23 Q. You tell us -- you've told us that what he
24 says to you is, "Well, Billy Garcia is coming down;
25 he'll take care of it," right?

1 A. Exactly. He never mentioned the murders.

2 Q. Hold on.

3 A. He never mentioned the murders.

4 Q. Hold on. Hold on. Okay? So Angel Munoz
5 has an urgent need to get ahold of you, right?

6 A. Yes, because he knows I had the yard at
7 that time.

8 Q. And you called him?

9 A. Yes, sir.

10 Q. And it's your testimony that what he's
11 saying to you is, "Don't worry about it; somebody
12 else is going to take care of it for you"?

13 Is that what your testimony is?

14 A. No. What he's saying -- what he told me
15 is -- I'm on my way home.

16 Q. Okay. Well, let's just slow down. Slow
17 down. But your testimony is, he's saying Billy
18 Garcia is going to take care of it?

19 A. Yes, sir.

20 Q. Even though it's your responsibility?

21 A. I don't have the yard no more.

22 Q. Well --

23 A. It's Mr. Garcia's yard now.

24 Q. Okay. So this is when Mr. Garcia was in
25 the prison?

1 A. He's on his way down. He's on his way
2 down, so I have to step down. It's rightfully his.

3 Q. Was this when Mr. Garcia was in the
4 Southern prison that the phone call was made?

5 A. I think he was in orientation, on his way
6 to orientation. He was coming from another facility
7 there.

8 Q. Okay. So Angel said he's essentially
9 there; hand over the keys and have him do these
10 murders?

11 A. He never mentioned murders.

12 Q. Okay.

13 A. He said, "Clean house." What he meant by
14 that, eventually we found out it was the murders.
15 At that time --

16 Q. Hold on. Let's hold on. Let's hold on.
17 Pull up Exhibit 884, which has been already admitted
18 as physical offender location of Alfred Lino Giron.
19 Okay? And I want you to see here, he was
20 transferred out also on February 5, 2001, the same
21 day that Jacob Armijo did. Do you see that?

22 A. Yes, sir.

23 Q. Okay. I want to show you another
24 document. It's page 21348 of discovery. Was it
25 Jason Hoster, is the person -- that's his name,

1 right? The three-way call?

2 A. Hoster. Something like that. It was a
3 weird last name.

4 Q. I'm going to show you some documents
5 which -- or a document which is the movement history
6 showing when people came in and out of Southern New
7 Mexico. Do you see that Jason Hoster arrived on
8 January 13, 2001, and left on March 13th of 2001?

9 A. Yes, sir.

10 Q. So he was there only a few days before you
11 were able to use his phone?

12 A. Yes, sir.

13 Q. Now, your goal when you were getting out
14 on March 23, 2001, was to get out on the streets and
15 run the drug business for the SNM?

16 A. No, sir.

17 Q. Okay. Do you recall telling the FBI on
18 February 10, 2011, that your goal was to get out and
19 run the streets for the SNM when you left the
20 facility?

21 A. Being an active member, yeah. Not running
22 the streets.

23 Q. Running the streets means running drug
24 deals?

25 A. Yes, sir, if that's what it calls for.

1 Q. Well, over the years, that's one of your
2 talents that you brought to the SNM, was the ability
3 to get drugs in the facility and distribute drugs,
4 right?

5 A. Yes, sir.

6 Q. Now, when this phone call was made, and
7 also when you left the facility on March 23, 2001,
8 Angel Munoz was actually already on the streets,
9 correct?

10 A. Yes, sir.

11 Q. And he was running the streets for the
12 SNM?

13 A. Yes, sir.

14 Q. And you were going to go work it with him?

15 A. I'm not from his area, but I was going to
16 go to the streets.

17 Q. Yeah, and for the SNM?

18 A. In my area, yes, sir.

19 Q. And put work in?

20 A. If it called for it.

21 Q. And run drugs?

22 A. If it called for it.

23 Q. Now, he was from Albuquerque, and you were
24 from a town about an hour and a half away from
25 there, right?

1 A. Yes, sir.

2 Q. And so the drugs would mostly come into
3 Albuquerque and then get distributed to other
4 communities, correct?

5 A. Yes, sir.

6 Q. So he was going to be a partner of yours?

7 A. No, just a jefe.

8 Q. Well, let me ask you this. Okay? Angel
9 Munoz sends out orders to kill, with Big Jake prior
10 to February 5th. Then you become the shot-caller
11 there, and it's your responsibility to kill Garza at
12 least, at least Garza. And you're going to come out
13 on the streets with Angel Munoz, and you're not
14 going to do -- you're not going to carry out the
15 orders?

16 A. What orders?

17 Q. The orders to kill Pancho and Looney.

18 A. No, sir, I didn't have nothing to do with
19 that.

20 Q. Well, after you got out of the facility --

21 A. I didn't --

22 Q. After you got out of the facility, you
23 didn't get hit by anybody, did you?

24 A. No, sir.

25 Q. You didn't get demoted in the SNM?

1 A. Because I didn't have --

2 Q. No, I'm just asking you a question. You
3 didn't get demoted?

4 A. I didn't have no responsibility.

5 Q. Did you get demoted or not?

6 A. No, sir.

7 Q. Okay. That's the answer.

8 A. Okay.

9 Q. In fact, you went up in standing after the
10 murders in March of 2001?

11 A. No, sir. No, sir.

12 Q. You became part of Styx's tabla. We just
13 already established that, correct?

14 A. There was different groups. I was part of
15 Styx's; then you had juniors; and you had different
16 groups; you had Mr. Garcia's crew; you had different
17 crews.

18 Q. Okay. So did you become part of Styx's
19 tabla after the 2001 murders? "Yes" or "No"?

20 A. Yes, sir.

21 Q. Now, do you recall meeting with three
22 individuals -- actually, let me back up. Prior to
23 the murder, did you meet with some people about the
24 murders, where there were discussions about the
25 murders?

1 A. No, sir.

2 Q. Do you recall meeting with Eugene
3 Martinez?

4 A. He lived in the same unit with me.

5 Q. I'm asking if you recall meeting him with
6 regards to the murders of Garza and Castillo?

7 A. We had discussions right before I left
8 home.

9 Q. Okay.

10 A. On that Thursday, probably.

11 Q. And do you know an inmate by the name of
12 Felix Reyes?

13 A. Felix Reyes?

14 Q. Felix Reyes, an inmate in your same unit?

15 A. What's his nickname?

16 Q. I don't know.

17 A. I don't know.

18 Q. He was an individual that was with you
19 often. He wasn't part of the SNM, but he was in
20 your unit and he was with you often.

21 A. I don't recall.

22 Q. Do you recall meeting, having a meeting
23 where Mr. Reyes was present, in which you discussed
24 the murders and gave instructions on the murders of
25 Garza and Castillo to these three individuals?

1 A. No, sir.

2 Q. Do you remember giving instructions to
3 Eugene Martinez?

4 A. No, sir.

5 Q. In the presence of Mr. Reyes, do you
6 recall providing to these individuals the specific
7 details about how the murder of Garza was to happen
8 and the murder of Castillo was to happen?

9 A. No, sir.

10 Q. Do you recall telling them what time of
11 day it was supposed to be carried out?

12 A. No, sir.

13 Q. Do you recall telling them that you wanted
14 the murders to happen after you left to get on
15 parole, so that you wouldn't screw up your parole
16 and get blamed for the murders?

17 A. That was --

18 Q. Did you or did you not?

19 A. I was discharging, for one thing. Another
20 thing, I've never had that conversations with those
21 guys.

22 Q. Felix Reyes' other nickname is Looney, a
23 different Looney. Do you remember him now?

24 A. No, sir.

25 Q. So you don't recall having that

1 conversation --

2 A. I don't --

3 Q. No, let me finish, sir. She cannot -- she
4 has a hard job. She cannot write down what we're
5 both saying.

6 A. What's the question, then?

7 Q. Let me finish. She can't write it down,
8 and the jury can't hear, either.

9 So do you recall having that conversation
10 at which Mr. Looney, Felix Reyes, was present, at
11 which you told them these details about how the
12 murders were to occur?

13 A. I never had that conversation with them
14 individuals.

15 Q. Okay. Now, you've talked to the FBI over
16 the years, right?

17 A. Sure.

18 Q. And you've been able to give them very
19 specific details about how each of the murders
20 happened, both the Garza murder and the Castillo
21 murder happened. Do you recall telling them that?

22 A. I've mentioned some things that I've
23 heard.

24 Q. Okay. So let's talk first about a person
25 by the name of Rolando Garza. He's a close friend

1 of yours?

2 A. Sure.

3 Q. You didn't make that a secret, did you?

4 A. A secret?

5 Q. You didn't make it a secret that he was a
6 friend of yours?

7 A. No, sir.

8 Q. I mean, anybody there at the facility
9 would have known the two of you were friends?

10 A. Yes, sir.

11 Q. So I imagine anybody that would
12 participate in the murder of your good friend is not
13 somebody you're friends with?

14 A. In all reality, no.

15 Q. You don't want to go near them, right?

16 A. He was a friend.

17 Q. You wouldn't want to know all the details
18 of how your good friend was murdered? That's
19 something that you would want to stay away from,
20 right?

21 A. At that time, I was an active gang --

22 Q. "Yes" or "No"? Would you try to go and
23 find out all the great details about how this person
24 you say was your great friend was murdered?

25 A. As I was debriefing --

1 Q. No. I'm asking you: In the months and
2 years after the murder of who you say is your great
3 friend --

4 A. Yes, sir.

5 Q. -- you wouldn't willingly go out and try
6 to find out all the nitty-gritty details of his
7 death?

8 A. I was doing that for the FBI, yes.

9 Q. Okay. Well, let's talk about this. You
10 told us, or you told the FBI that you knew exactly
11 how Garza was murdered, right?

12 A. Through hearsay, yes, sir.

13 Q. Okay. And that Garza was fighting back
14 while he was being strangled?

15 A. Yes, sir.

16 Q. And that he got free at one point from one
17 of his attackers?

18 A. Yes, sir.

19 MR. CASTELLANO: I'll object to hearsay.

20 MR. CASTLE: I'll rephrase it.

21 MR. CASTELLANO: He has no personal
22 knowledge. He can only give this information
23 through hearsay, Your Honor.

24 MR. CASTLE: Your Honor, I'm offering it
25 for nonhearsay purposes, if the Court would like to

1 know what that is?

2 THE COURT: Yeah, I better hear what
3 you're going to try to -- you said you were going to
4 rephrase, but it's up to you if you want to approach
5 and tell me what the nonhearsay purpose is.

6 MR. CASTLE: If I could?

7 THE COURT: You may.

8 (The following proceedings were held at
9 the bench.)

10 THE COURT: If he wasn't there, I guess
11 I'm concerned that he's going to have heard all this
12 from other people.

13 MR. CASTLE: Judge, it's my position that
14 when someone orders a murder, and then goes back and
15 talks to each and every person he ordered to do it,
16 and then gets nitty-gritty details about how it
17 happened, it will show that he's the person who
18 ordered it. And that's the purpose of this. He's
19 out asking all these people. There are seven
20 different individuals he went and talked to,
21 essentially both hit squads, individually one by
22 one, and got details about how it occurred.

23 That doesn't happen unless you're the one
24 that ordered it.

25 THE COURT: That doesn't even follow for

1 me. I mean, I don't understand why after the fact,
2 if you go get details, that would show that you
3 ordered it.

4 MR. CASTLE: Well, I don't think anybody
5 in this case is ever going to say -- any witness is
6 going to say he went out and talked to all seven
7 people.

8 THE COURT: I think you can certainly ask
9 that question, and you can ask details, and I'll let
10 you impeach him to a certain extent. But as far as
11 him doing an investigation for everybody and coming
12 in and just giving all the details of his
13 investigation, I think I've got to be careful on
14 that.

15 MR. CASTLE: The only thing I would
16 mention also is that the Government has already put
17 in these statements, so they've already asked, for
18 example, with regards to Garza, what Christopher
19 Chavez told him. And they've already put in what
20 I'd asked Mr. Eugene Martinez what he told this
21 individual. He said he never talked to him. So
22 that's an inconsistent statement.

23 THE COURT: So you're using him to impeach
24 other witnesses?

25 MR. CASTLE: I'm doing it to impeach --

1 this is additional evidentiary grounds for admission
2 to impeach Eugene Martinez, who said he never talked
3 to Lucero after that.

4 THE COURT: Well, you'll have to track
5 those. You'll have to remind me of the statements
6 that you're trying to impeach, and then I can
7 instruct the jury not to consider these for the
8 truth; just for purposes of determining which
9 witness it was that you're trying to impeach.

10 MR. CASTLE: I'm trying to dance around it
11 a little bit so that I don't have different
12 individuals identifying somebody else who might have
13 participated. So if I can have leeway -- well, I'm
14 on cross. I get to lead anyway.

15 MR. CASTELLANO: It's all hearsay. The
16 other problem is, he's opening the door, and that's
17 the statement that Mr. Shattuck was concerned about
18 yesterday. Because one of those statements is that
19 Ray Molina told him that he was involved with the
20 murder, and along with Mr. Patterson and the other
21 two who are named in the indictment. When he does
22 that, he's going to open the door as to additional
23 statements, pointing the finger at other defendants.

24 And so --

25 MR. SHATTUCK: Molina told Christopher --

1 MR. SOLIS: Ray Molina. He figures in
2 this, too.

3 THE COURT: Well, as long as I can
4 instruct the jury that this is just coming in for
5 impeachment purposes, and you help me identify which
6 witness you're trying to impeach, then I think that
7 we can avoid opening the door. Because we're not
8 going to have these statements coming in for the
9 truth. So if you'll help me make sure I can give
10 them correct instructions.

11 MR. SHATTUCK: That's my concern, is
12 opening the door on Mr. Patterson.

13 THE COURT: Well, as long as I don't let
14 it in for the truth --

15 MR. SHATTUCK: And he said in prior
16 testimony under oath that he's never spoke with
17 Patterson. During the James hearing, he testified
18 that he's never spoken to Allen Patterson -- he said
19 Ray and I have no idea why -- but Allen Patterson
20 about the murders. That's true. The information we
21 had was from Ray Molina, who gives a statement
22 against interest inculcating himself and the others
23 charged in this case. Eugene Martinez, Patterson,
24 and I think there was a third.

25 But that's going to bring in statement

1 against interests by Ray Molina. And they will be
2 against Mr. Molina's interests because he inculcated
3 himself as being involved in the murder.

4 So I think we're going to have hearsay
5 coming in, and then we're going to have a statement
6 against interests implicating individuals at trial.

7 THE COURT: Well, if it's just coming in
8 for a nonhearsay purpose, I think we avoid most of
9 these problems. So help me out so I can give the
10 instruction, and we can --

11 MR. CASTLE: Also, just to let the Court
12 know, statement against interests exception, as much
13 as I'd like to use it, isn't available, because we
14 can't establish that Ray Molina is unavailable. So
15 I won't be offering any statements as statements
16 against interests, because of unavailability.

17 THE COURT: So you're just bringing it in
18 for a nonhearsay purpose?

19 MR. CASTLE: Right.

20 THE COURT: Just to impeach him?

21 MR. CASTLE: Yes, exactly.

22 THE COURT: Okay. Let's try and see if we
23 can walk through it without opening too much. Help
24 me out so I know who you're impeaching.

25 (The following proceedings were held in

1 open court.)

2 BY MR. CASTLE:

3 Q. Mr. Lucero?

4 A. Yes, sir.

5 Q. Did you or did you not form two squads of
6 people to conduct the hits on Garza and Castillo?

7 A. No, sir.

8 Q. You have indicated that you've talked to
9 four participants in the murder of Garza, correct?

10 A. I ran into them in the past, yes, sir.

11 Q. And you talked to them about the details
12 of what happened?

13 A. Not the full details.

14 Q. Not full details?

15 A. No, sir. Just little bits here and there.

16 Q. Okay. Well, but how it happened, who was
17 doing what, things like that, right?

18 A. Pretty much so.

19 Q. And whether people tried to escape and
20 things like that, right?

21 A. Yes, sir.

22 Q. Now, that's just for the Garza murder.
23 For the murder of Castillo, you've indicated to the
24 FBI that you've talked to all three of the
25 individuals that you claim participated in that

1 strangulation, correct?

2 A. No, sir.

3 Q. Well, let's go through it a little bit.

4 Okay? You talked -- you've told --

5 MR. CASTLE: This is for impeachment
6 purposes, Your Honor.

7 THE COURT: Just to Mr. Lucero?

8 MR. CASTLE: As to Eugene Martinez,
9 impeachment of a statement Eugene Martinez made.

10 THE COURT: All right. And what is the
11 statement?

12 MR. CASTLE: That he talked to Eugene
13 Martinez after the homicide, and Mr. Martinez said
14 some things. I don't want to get the statement out
15 without a ruling, Your Honor, but Mr. Martinez
16 denied talking to Mr. Lucero after the murders.

17 THE COURT: I'm not sure there is enough
18 yet to -- you're not trying to impeach Mr. Lucero at
19 all; just Mr. Martinez?

20 MR. CASTLE: Yes.

21 THE COURT: All right. So Mr. Castle is
22 going to ask Mr. Lucero about a statement that
23 Mr. Martinez made earlier in the trial, and you can
24 use this only to determine where Mr. Martinez was
25 testifying truthfully at the time. You can't use it

1 for the truth of the matter now. So you can just
2 use it to determine whether Mr. Martinez came and
3 told you the truth on the day that he testified.

4 All right.

5 BY MR. CASTLE:

6 Q. When did you talk to Eugene Martinez after
7 the murders?

8 A. Recently, I talked to him.

9 Q. I don't want to know recently. Just hold,
10 on, because I want to be careful on this. Okay? In
11 the year or two after the murders, did you have an
12 opportunity to talk to Eugene Martinez?

13 A. Passing through.

14 Q. What's that?

15 A. Passing through at the North, during --

16 Q. Oh, passing through?

17 A. Yes, sir.

18 Q. And did you talk to him about the 2001
19 murders and his participation?

20 A. No, sir. I've never specifically talked
21 to him about that.

22 Q. That first interview you had with the FBI,
23 do you recall telling them that you had talked to
24 Eugene Martinez regarding his involvement in the hit
25 on Rolando Garza? Do you recall telling them that?

1 A. I don't recall. I don't remember.

2 Q. How about on January 18th of this year, in
3 your tape-recorded interview, detailing to the FBI
4 what Eugene told you happened and what his role was
5 in the murder? Do you recall that?

6 A. No, sir, I don't recall that.

7 Q. Do you recall that you had stated that
8 Eugene admitted being part of the team that killed
9 Garza and that he was the one that finished him off
10 and killed him?

11 A. No, sir, I never said that. I don't
12 recall that at all.

13 Q. Let's look here. Do you recall talking to
14 them and telling them what Eugene had told you?
15 "Yes" or "No"? Did you in fact --

16 A. I do remember saying that, but I don't
17 remember when we had that conversation.

18 Q. Well, do you remember telling them --
19 well, this would have been -- have they not gone
20 through your reports with you, and your recording?
21 Did they not do that with you? Did the Government
22 do that before you testified?

23 A. I went through it.

24 Q. Okay. So you've had an opportunity to
25 read this, right?

1 A. Yes, sir.

2 Q. And you recall telling them that Eugene
3 talked to you, right?

4 A. I told them.

5 Q. And about the murder, right? Right?

6 A. Yes.

7 Q. And that he told you that he had "fucking
8 finished him, held him"? Is that right?

9 A. Yes.

10 Q. And then you also say that Eugene told you
11 that Rolando was fighting with them guys, and he was
12 getting out of the door, that he'd gotten out of
13 their grip, and all kinds of other details? Do you
14 see that?

15 A. Yes, sir.

16 Q. And that Eugene told you there was four
17 people who went in, right?

18 A. Yes, sir.

19 Q. And that he said that one of them was Ray
20 Molina?

21 A. Yes, sir.

22 Q. And he also told you who was a lookout.
23 Do you recall that?

24 A. No, I don't recall that.

25 Q. What was his demeanor like, Eugene's

1 demeanor like, when he told you? Did you have to
2 pry it out of him?

3 A. We were just casually talking.

4 Q. Was it kind of like how guys brag about
5 the work they've done?

6 A. Yeah. Yes, they do do that.

7 Q. And so was Eugene talking about -- like
8 was he just talking like you guys normally talk, or
9 was it something that he -- just tell us how he was
10 talking.

11 A. He was just talking.

12 Q. Okay. He wasn't sitting there, saying,
13 "Oh, I can't believe I did this," sadness, crying,
14 things like that? He was just talking like a
15 regular guy, right?

16 A. No, sir.

17 Q. And he actually told you details about how
18 they carried it out, right?

19 A. No, sir.

20 Q. Well, let's approach again. Page 52050.
21 Asking you who told you things, and you talked about
22 Eugene. And then they talk about how Boxer went in
23 first to comfort him, and then the rest of the guys
24 came in, et cetera, right?

25 A. I remember that.

1 Q. And as far as the lookout, you even
2 indicated that Eugene told you that there was a guy
3 by the name of Lorenzo who was on the tier, who was
4 a lookout?

5 A. Yes, sir.

6 Q. And that's Lorenzo Mora, right? You know
7 Lorenzo Mora, right?

8 A. Yes, sir.

9 Q. And what Eugene told you, of the four
10 people he said participated in the murder of Garza,
11 they included Eugene, himself; Ray Molina; and
12 Lorenzo Mora? Correct?

13 A. No, sir.

14 Q. Well, he said Mora was a lookout?

15 A. Yes, sir.

16 Q. And he told you he and Ray participated in
17 the murder, right?

18 A. Yes, sir.

19 Q. So that was three of them?

20 A. Yes.

21 Q. But when you testified on direct -- well,
22 strike that.

23 And you actually, I think, asked Eugene
24 some more specifics about what happened, about who
25 actually strangled him. And this is at 52049. And

1 the question was:

2 "So what did Eugene tell you?"

3 And your answer was:

4 "Yeah, so that's when he had fucking
5 finished him, held him, finished him off."

6 I think I may have asked you that already.
7 If I did, I apologize.

8 THE COURT: All right. Would this be a
9 good time for us to take our morning break, Mr.
10 Castle?

11 MR. CASTLE: Yes. I think I've littered
12 the room.

13 THE COURT: That's fine. All rise.
14 We'll be in recess for about 15 minutes.
15 (The jury left the courtroom.)

16 THE COURT: Mr. Castle, do you have the
17 letter with the highlighted portions that you want
18 to try to get under state of mind? All right.
19 Thank you. I'll take a look at it.

20 All right. We'll be in recess for about
21 15 minutes.

22 (The Court stood in recess.)

23 THE COURT: All right. We'll go on the
24 record. Anybody have anything they need to raise
25 before we bring the jury in? I had to get on a

1 phone call, so let me look at it here, and I'll try
2 to --

3 MR. CASTLE: Judge, just generally, just
4 to let the Court know, he testified he left SNM in
5 2007, 2008. A lot of this impeaches that because it
6 shows he is still doing the work, the business.
7 There's drug-dealing going on, and he's calling
8 people "carnals," and there is testimony that only
9 SNM members call people "carnal," and things like
10 that. So those are the general areas.

11 THE COURT: I'll try to keep it in mind.

12 MR. CASTLE: Thank you.

13 THE COURT: Did you have anything, Mr.
14 Castellano? Mr. Beck?

15 MR. CASTELLANO: No, Your Honor.

16 THE COURT: Anything else? Anybody else
17 have anything?

18 All rise.

19 (The jury entered the courtroom.)

20 THE COURT: All right. Everyone be
21 seated. All right.

22 Mr. Lucero, if you'll return to the
23 witness box. I'll remind you that you're still
24 under oath. All right.

25 Mr. Castle, if you wish to continue your

1 cross-examination of Mr. Lucero, you may do so at
2 this time.

3 MR. CASTLE: Thank you, Your Honor.

4 THE COURT: Mr. Castle.

5 BY MR. CASTLE:

6 Q. Mr. Lucero, I just wanted to clear
7 something up that maybe I made a mistake on. I'm
8 going to show you the movement record of Jason
9 Hoster. Is that what you called him?

10 A. Yes, sir.

11 Q. It says that he left on March 13, 2001; is
12 that right?

13 A. Yes.

14 Q. So the call that you're talking about
15 happened before March 13th? The call with Angel
16 Munoz happened before March 13, 2001, right?

17 A. Yes, sir.

18 Q. Because you couldn't have had it when he
19 left?

20 A. Yes.

21 Q. Now, we talked about some discussions you
22 had in the couple years after the 2001 murders, in
23 which you talked about participants, and we were
24 talking about the Garza murder. And we talked about
25 one of the participants that talked to you, and that

1 was Eugene Martinez. Do you recall?

2 Now, you talked to another participant by
3 the name of Lorenzo Mora?

4 A. Yes.

5 Q. And without going into details about that,
6 he talked to you about his role, right?

7 A. Yes, sir.

8 Q. And then there was a third person by the
9 name of Ray Molina, also known as Boxer. Do you
10 recall that?

11 A. Yes, sir.

12 Q. And you talked to him about his role in
13 the murders, right?

14 A. Yes, sir.

15 Q. And you talked to him about details of how
16 things happened, right?

17 A. Not really too much detail, but --

18 Q. Do you recall this interview in January,
19 talking to, once again, Agent Acee on a recording,
20 and you indicated you talked to Ray Molina? Do you
21 recall that?

22 A. I did speak to Ray Molina.

23 Q. Okay. And then you told them you were
24 extremely surprised that Ray Molina wasn't charged
25 in this case?

1 A. Yes, sir.

2 Q. Shocked? Right?

3 A. Yes, sir.

4 Q. You told the FBI, "Ray Molina is the guy
5 you really need to go for"?

6 A. I didn't say all that, but --

7 Q. You asked them, "You guys got Ray Molina,"
8 right?

9 A. Yes, sir.

10 Q. You know I can't get into all the details
11 of what you said?

12 A. Sure.

13 Q. But essentially, you're saying, "Why
14 aren't you prosecuting him?" Correct?

15 A. I was wondering why they didn't do it.

16 Q. Why he didn't do it? Why the FBI didn't
17 prosecute him?

18 A. Yes, sir.

19 Q. Ray Molina? Now, Ray Molina is a friend
20 of yours, right?

21 A. Yes, sir. Ex-friend.

22 Q. When did he become an ex-friend?

23 A. When I dropped out.

24 Q. In 2007, 2008?

25 A. Now, when I left the gang. All these guys

1 are my enemies now.

2 Q. So that would have been 2007, 2008, right?

3 A. Yes.

4 Q. Ray Molina is Angel Munoz's son-in-law,
5 right?

6 A. No, sir.

7 Q. He's related to him? Don't you recall
8 that?

9 A. I don't recall that.

10 Q. Okay. What was last time -- when was the
11 last time you think you talked to Ray Molina or
12 communicated with him in any fashion? Would it have
13 been before you dropped out?

14 A. Before I dropped out.

15 Q. Well, do you recall a letter you wrote to
16 Ray Molina in 2012, in which you write him?

17 A. Yes, sir.

18 Q. And this is the guy that you say
19 participated in the murder of your good friend,
20 Rolando Garza, right?

21 A. My understanding, he had some kind of
22 involvement in it.

23 Q. Okay. I'll show you a letter that was
24 intercepted.

25 A. Yes.

1 Q. I'm sorry. 5854. And it's from you,
2 right? Leroy Lucero?

3 A. Yes.

4 Q. While you were at Lewisburg penitentiary?

5 A. Yes, sir.

6 Q. And you're sending it to Ray Molina,
7 right?

8 A. Yes.

9 Q. You had found out what his home address
10 was and sent it to his home, right?

11 A. Yes, sir.

12 Q. And in here, you do nice little greetings
13 and things of that nature, right?

14 A. Yes, sir.

15 Q. And you're telling him that you're having
16 some problems in there with the Surenos?

17 A. Yes, sir.

18 Q. But that you've been going hard with your
19 gang for at least the last five years?

20 A. Yes, sir.

21 Q. So five years back from 2012 would be
22 2007. So you're telling him you're working hard for
23 the SNM from 2007 to 2012, correct?

24 A. Going hard. You know, the BOP is full of
25 different gangs.

1 Q. And you're also talking to him about
2 talking to Fuzz?

3 A. Yes, sir.

4 Q. At least a couple times a week. And he's
5 supposed to get with Palos for you, to speak to him,
6 right?

7 A. That was about my situation out there,
8 that I was in trouble.

9 Q. Once again, Fuzz is Raymond Rascon, an SNM
10 member, right? Earlier, you said you'd made phone
11 calls from prison, right?

12 A. Yes, sir.

13 Q. And what is Palos?

14 A. Styx.

15 Q. So you wanted -- supposed to get back in
16 touch with Styx for you. And then you finish it up
17 by saying you're going to get him a little something
18 for Christmas, "I'll send it to you in the mail"?
19 Right?

20 A. Yeah.

21 Q. And this is the Ray Molina you said you
22 hadn't contacted since 2007, 2008, since you dropped
23 out?

24 A. Yeah, I tried to make contact with him,
25 never got ahold of him. He never wrote back.

1 Q. Okay.

2 A. That's why I said I didn't get ahold of
3 him. No contact.

4 Q. Let's talk about the second murder, Frank
5 Castillo. Okay?

6 A. Right.

7 Q. Now, Frank Castillo is not somebody you
8 had a friendship with or claimed to have a
9 friendship with, right?

10 A. No, sir.

11 Q. He's just some dude?

12 A. A dude.

13 Q. Yet, you talked to all of the three people
14 that you claim participated in that murder?

15 A. Yes, sir.

16 Q. Let's talk about the first one, Angel
17 DeLeon.

18 A. Okay.

19 Q. Do you know who that is?

20 A. Yes, sir.

21 Q. Is he a friend of yours?

22 A. He was a brother.

23 Q. And he was a friend, right? I mean --

24 A. I knew him.

25 Q. When you got out -- you got out for some

1 period in 2001, right?

2 A. Yes, sir.

3 Q. How long was it -- about six months? --
4 before you committed another crime and got back in?
5 Actually, I think it was shorter than that, right?

6 A. A year.

7 Q. Was it a year?

8 A. I think a year.

9 Q. And during that year, you went looking for
10 Angel DeLeon. Do you recall that?

11 A. I don't recall that at all.

12 Q. Well, do you recall going and trying to
13 talk to Angel DeLeon's brother and find out where he
14 is?

15 A. No, sir.

16 Q. And to make sure that he was out of the
17 country?

18 A. No, sir.

19 Q. Okay. Do you know who Angel DeLeon's
20 brother is?

21 A. No, sir. I didn't even know he had a
22 brother.

23 Q. January 17, 2018, again you made a
24 statement. And Agent Acee is trying to find out
25 where Angel DeLeon is, right? Because he wants to

1 arrest him?

2 A. Yes, sir.

3 Q. And you tell him that Angel DeLeon is in
4 Mexico?

5 A. Yes, sir.

6 Q. You talked to him about -- I think you
7 talked with a brother from Arizona, so the brother
8 from Arizona is Angel DeLeon's brother?

9 A. No, that's "brother" as a carnal.

10 Q. Okay.

11 A. Not a blood brother.

12 Q. Now, you say you talked to Angel one time,
13 right?

14 A. At the North.

15 Q. And you say you talked to him a little
16 bit, but you said you weren't debriefed at that
17 point, right? "We didn't really talk too much. I
18 didn't -- I wasn't debriefed at that time." Is that
19 right?

20 A. Yes, sir.

21 Q. So Angel DeLeon didn't debrief you about
22 how the murder of Castillo happened?

23 A. No, sir.

24 Q. Okay. So then you say you talked -- you
25 claim that you talked to Joe Gallegos about the

1 murder as well, right?

2 A. Yes.

3 Q. And was it Joe Gallegos who told you that
4 he was worried about somebody snitching on him?

5 A. He just asked me if I thought that if
6 Lorenzo would snitch.

7 Q. Okay. And then you say you talked to
8 Troup, right?

9 A. Passing through at the North.

10 Q. And he tells you briefly what, again?

11 A. Nothing, really.

12 Q. Nothing, really. Did you talk to any
13 other participants in that murder?

14 A. I don't know who else was there.

15 Q. Well, you told the FBI how that murder
16 happened, exactly how it happened. Do you recall
17 telling them details of that murder?

18 A. Just what I've gathered within the years
19 with the hearsay.

20 Q. With the hearsay?

21 A. Just --

22 Q. The hearsay from --

23 A. Inmate.com.

24 Q. Inmate.com?

25 A. Just people talking.

1 Q. We'll look that up to see.

2 A. Okay.

3 Q. So in any event, all seven people that you
4 say participated in these murders, you get details
5 from and talk to? You had nothing to do with it?

6 A. Exactly.

7 Q. Now, the FBI wanted to find out why you
8 knew so much details about those murders. Do you
9 recall that?

10 A. No.

11 Q. Specifically with regard to Joe Gallegos,
12 they said to you -- they asked you how come you knew
13 about this. And do you recall telling them, "Joe
14 and I talk about assaults and stabbings and murders
15 all the time"?

16 A. We didn't talk all the time about that.
17 It's just brothers talk amongst each other. It's
18 not like we sit there, you know what I mean, and
19 discuss it all day. Sometimes brothers will talk,
20 and stuff comes out.

21 Q. You testified once briefly in this case
22 before this week, right?

23 A. The other trial.

24 Q. A really short time period? It was in
25 April of this year, right?

1 A. Yes, sir.

2 Q. And some lawyers were asking you what you
3 remembered about your supposed conversations with
4 Joe Gallegos. Do you recall that?

5 A. Yes, sir.

6 Q. And people were asking because they wanted
7 to know why this person would confess involvement in
8 a murder, to you, right? That was what the
9 questions were about?

10 A. He didn't confess. He just asked me that
11 one question.

12 Q. Okay. And --

13 A. I just put it together.

14 Q. You say that the two of you just talk
15 about various assaults and murders?

16 A. No, I didn't say that. You said that,
17 sir.

18 Q. Okay. Let's take a look.

19 A. I never said that we talk about that.

20 Q. Well, wait here a second. I'll move on to
21 something else while we get that transcript.

22 In any event, when you were questioned at
23 that hearing about details of any other assaults or
24 murders you guys ever talked about, you couldn't
25 provide a single detail, right?

1 A. Like what?

2 Q. Well, any details? You said, "I can't
3 remember any details of any of the other assaults
4 and murders that I supposedly talked with Joe
5 Gallegos about," right?

6 A. Because we've never talked about other
7 assaults; just you said that day that we just get
8 together and talk about random assaults and this and
9 that. That day was just that one thing he asked me,
10 and that's it. It's not like he talked to me all
11 the time about it.

12 Q. Well, do you recall your prior testimony
13 being this, so I want to make sure it's not just
14 some -- me saying it. Okay?

15 The question was, "Well, prior to this
16 time at the PNM, had Mr. Gallegos and you ever had a
17 conversation where either you or he admitted to each
18 other that you'd done something illegal?"

19 Do you remember that question being asked?

20 A. I don't recall.

21 Q. That's a pretty open question, right?

22 Then you said, "Yeah, a few times."

23 And then the question was, "Okay, tell me
24 a little bit about that."

25 And your answer was, "Just street talk. I

1 did this, we did that. You know, it doesn't --
2 nothing's nothing. I don't remember what, what we
3 discussed."

4 Then I asked, "Okay. So no specifics that
5 you can recall?"

6 "No specifics, no specifics," was your
7 answer.

8 And I asked, "Because it's been a long
9 time, right?"

10 And then you said, "It's been 17 or 18
11 years."

12 And then I asked, "Would it be pretty
13 serious stuff you guys talked about, like something
14 as serious as assaults or murders or things like
15 that, someone committed?"

16 And your answer was, "We discussed that."

17 And then I asked you if you could remember
18 any details of any of those other events, and you
19 said, "No."

20 A. Yes.

21 Q. The only one you could remember details of
22 was the 2001 murders, right?

23 A. That's the only time we've talked.

24 Q. Because that was the only murders that you
25 guys were talking about that you had participated

1 in?

2 A. We weren't talking about the murder. He
3 just asked me that one question. That was it.

4 Q. You've told us today that you said very
5 little -- that Mr. Gallegos said very little to you,
6 and Mr. Troup said very little to you, right? And
7 apparently Mr. DeLeon told you very little, right?

8 A. Yes, sir.

9 Q. But you were able to tell the FBI that the
10 item that was used to strangle Castillo was flushed
11 down a toilet. Do you remember that?

12 A. That's what I've heard through the
13 grapevine.

14 Q. Okay.

15 A. That's it. You know what I mean? This is
16 just, like I said, hearsay. This is what has been
17 said throughout the system.

18 Q. Well, let's see if that's where you said
19 it came from.

20 A. Okay.

21 Q. I believe you said it was Eugene told you
22 that -- not Eugene. I'm sorry. I apologize. Wrong
23 murder.

24 Do you see you're giving details about
25 what people said happened?

1 A. Yeah.

2 Q. Okay. You're talking about Lorenzo and
3 all that, right? Do you see that?

4 A. Yes, sir.

5 Q. "That's when -- after they flushed the
6 bags or whatever the fuck they used, the sheets or
7 whatever."

8 Do you see that?

9 A. Yes, sir.

10 Q. Then you're talking about DeLeon, your
11 conversation with DeLeon. Do you remember that?

12 A. Yes, sir.

13 Q. You told the police or the FBI that
14 Mr. DeLeon got scratched while murdering Castillo.
15 Do you remember that?

16 A. That's what I heard.

17 Q. And that Angel DeLeon was concerned about
18 his DNA coming back and matching the DNA found at
19 the scene?

20 A. That's what I heard, you know, through
21 inmates talking, brothers talking. They --

22 Q. Okay, just stop. But in all the
23 statements you make, okay, whether you're saying you
24 talked to Eugene, whether you're saying you talked
25 to Edward Troup, whether you're saying you talked to

1 Joe Gallegos, you never mention anybody by the name
2 of Michael Jaramillo, also known as -- I believe his
3 name is Criminal, nicknamed Criminal? You never
4 mention his name, do you?

5 A. No, sir.

6 Q. And another interesting thing I've got to
7 ask you about is, whether you're saying Eugene
8 Martinez is telling you the details, or whether it's
9 Lorenzo Mora telling you the details, or whether
10 it's Ray Molina telling you the details, or whether
11 it's any of those three people talking about details
12 on the other murder, no one ever mentions Leonard
13 Lujan, do they?

14 A. No, sir.

15 Q. And the FBI was curious about that,
16 weren't they? They asked you some questions about
17 Leonard Lujan. Do you recall that?

18 A. Yes, sir.

19 Q. And you said he was a nobody and had
20 nothing to do with these murders, right?

21 A. To my knowledge. But I wasn't there, so I
22 don't know. I just gave them what I learned.

23 Q. But Eugene Martinez was there, right,
24 according to him?

25 A. Where?

1 Q. During the murders. Yeah, he told you he
2 was there during the murders, right?

3 A. Yes, sir.

4 Q. And he told you who did what and where?

5 A. No, he didn't.

6 Q. He told you who held him and who strangled
7 him?

8 A. No, he did not.

9 Q. Okay. And this is where Eugene is talking
10 to you, right? Correct?

11 A. Yes, sir.

12 Q. And he's telling you things like that
13 Rolando was fighting, Rolando was really strong,
14 right?

15 A. No, I'm saying that he was strong.

16 Q. Well, you weren't there when the murders
17 happened?

18 A. Yes, sir.

19 Q. You're talking about what Eugene is
20 telling you, correct, in this segment? See, that's
21 what Eugene told you, and you say --

22 A. Well, that's what we were saying. There
23 is a lot of words right there. I don't know
24 what's -- unless I read it.

25 Q. Okay. Let's read it. Take your time.

1 Let's start from the bottom of page 52048 and go all
2 the way through 52050. Take your time and read it.

3 Okay?

4 A. Okay.

5 Q. You are telling them a bunch of details
6 that Eugene told you, correct?

7 A. Not just him, other people.

8 Q. Well, two participants. You're talking
9 about two different participants in the murder
10 giving you details on a blow-by-blow basis about
11 what happened, correct?

12 A. Pretty much.

13 Q. Yeah, the extent to which Rolando was
14 fighting with them, you know; how far Rolando got
15 towards the door before he was killed; who was
16 strangling him at what time; who was tiring out; et
17 cetera, et cetera, right?

18 You gave them a lot of details?

19 MR. CASTELLANO: Objection.

20 THE COURT: I think we're getting the
21 point. Let's just see if we've got an answer here.

22 Q. A lot of details about Eugene?

23 MR. CASTELLANO: Actually, under the rule
24 of completeness, I would ask that the names be
25 provided. He said players were involved, to include

1 Critter, Ray Molina, Eugene, and Mr. Patterson.

2 THE COURT: Yeah.

3 MR. CASTLE: That's not what he said here.

4 THE COURT: Well, if it's not what he
5 said, then I don't think he has to provide it.

6 MR. CASTLE: Not in the pages that I was
7 providing him, Your Honor.

8 MR. CASTELLANO: May we approach, Your
9 Honor? It's on the page he's talking about.

10 THE COURT: Show it to each other and see
11 if y'all can work this out. This ought to be
12 something that y'all can agree on.

13 MR. CASTELLANO: May we approach, Your
14 Honor?

15 THE COURT: You may.

16 (The following proceedings were held at
17 the bench.)

18 MR. CASTELLANO: I think Mr. Castle may
19 agree with me. We are talking about the same pages.
20 They are 52048 --

21 MR. CASTLE: You need to wait until Mr.
22 Patterson's lawyers get here.

23 MR. CASTELLANO: I'm sorry?

24 MR. CASTLE: I wanted to wait till
25 Mr. Patterson's lawyers got here.

1 MR. SHATTUCK: I'm here.

2 MR. CASTELLANO: Under the rule of
3 completeness, he has referenced what Eugene Martinez
4 said, including players. What he has left out are
5 the names of the players that Mr. Eugene Martinez
6 included, which was Critter, Ray Molina, Eugene, and
7 Mr. Patterson. Under the rule of completeness, I
8 don't think he can just skim over that part without
9 putting in additional names regarding what
10 Mr. Patterson said or what Mr. Eugene Martinez said.

11 So what I'm asking is, under the rule of
12 completeness, on the exact same page and paragraphs,
13 he was discussing, that the names be provided.

14 MR. CASTLE: Your Honor, I was only
15 talking about the kind of information that he was
16 able to provide. I was very careful not to identify
17 Mr. Chavez as being a source, only Eugene, because I
18 thought the Court had allowed me to impeach on
19 Eugene Martinez's statements. That's where I was
20 going.

21 The beginning of the question was what
22 Eugene Martinez had told him. And I understand not
23 getting into the details.

24 MR. CASTELLANO: On 52049, it indicates
25 what Mr. Martinez told him.

1 THE COURT: Well, I don't think that all
2 these names and details are necessary for the
3 impeachment that's taking place, so I'm going to
4 overrule the objection and let Mr. Castle frame his
5 question the way he wants to.

6 MR. SHATTUCK: Your Honor, I would like
7 the Court to instruct the jury that not only you're
8 overruling the objection, but they're not to
9 consider the names that he said. Because he blurted
10 out the names.

11 THE COURT: All right. I'll do that.

12 MR. SHATTUCK: Thank you.

13 (The following proceedings were held in
14 open court.)

15 THE COURT: Remember, it's just the
16 testimony that you can consider in this; not even,
17 really, the lawyers' questions or objections. So
18 Mr. Castellano gave you some names. Ignore those
19 names. You're not to consider those. I overruled
20 the objection, and Mr. Castle can ask his question
21 the way he framed it.

22 Mr. Castle.

23 MR. CASTLE: After all that, I'm going to
24 move on to a different question, Your Honor.

25 THE COURT: Mr. Castle.

1 BY MR. CASTLE:

2 Q. You testified about a different Lorenzo.
3 Do you recall that? A Lorenzo that might or might
4 not have been on a cell block where the Castillo
5 murder happened. Do you recall that?

6 A. Yes, sir.

7 Q. And you started to tell us what Mr. --
8 that Lorenzo saw and observed, right?

9 A. I don't understand the question.

10 Q. Well, you understand -- well, you talked
11 to that Lorenzo, right?

12 A. Lorenzo.

13 Q. About what he saw and what he observed?

14 A. No.

15 Q. You don't recall testifying that Lorenzo,
16 a guy down the unit, came down and was looking up?
17 You don't recall any of that?

18 A. That's what I heard.

19 Q. Okay.

20 A. That's what I heard. I never spoke to
21 him.

22 Q. That wasn't from Lorenzo?

23 A. No, sir.

24 Q. Now as far as Leonard Lujan, you were
25 asked, "What was Leonard Lujan's involvement?" And

1 you said, "Nothing."

2 A. Nothing. I already --

3 Q. Hold on. Then you said, "Leonard didn't
4 have no say-so in that at all," right?

5 A. Right.

6 Q. And that's in reference to the murders
7 of --

8 A. That's what I think.

9 Q. That's in reference to the murders of
10 Garza and Castillo, right?

11 A. Yes, sir.

12 Q. And you're saying, "Leonard didn't have no
13 say-so in that at all," right? That's what your
14 quote was?

15 A. To my recollection, no.

16 Q. Well, the only people that would know who
17 had a say-so in the murders of Garza and Castillo
18 are the people that were there and part of the
19 decision-making to kill them, correct?

20 A. To sum up.

21 THE COURT: Mr. Lucero, why don't you pull
22 the microphone right to the edge there and pull it
23 up.

24 A. Right here, ma'am? I'm sorry.

25 Q. So as these people were telling you the

1 details on the murder of your friend and another
2 person, I take it you walked away because you didn't
3 want to hear it?

4 A. No, sir. I stood there.

5 Q. Yeah.

6 A. I stood there and listened.

7 Q. Okay. Do you recall an inmate by the name
8 of Toby Romero?

9 A. I've heard of that name.

10 Q. Well, Toby was there at the facility,
11 Southern New Mexico Correctional Facility, until
12 shortly before the murders. Do you recall that?

13 A. I think so. I'm not too sure. I don't
14 recall.

15 Q. Don't you recall talking to the FBI about
16 Toby Romero?

17 A. No, sir.

18 Q. Are you aware Mr. Romero, Toby Romero, is
19 deceased now?

20 A. No, sir.

21 Q. Do you recall, before the murders of Garza
22 and Castillo, approximately a couple months before,
23 probably during this late February time period --
24 okay? Do you recall telling Toby Romero that you
25 wanted the murders of Garza and Castillo to be

1 carried out at the same time?

2 MR. CASTELLANO: Objection; calls for
3 hearsay.

4 THE COURT: No, it's his statement.

5 MR. CASTELLANO: An out-of-court
6 statement, Your Honor.

7 THE COURT: Well, I think he is trying to
8 impeach on the prior question. So I'll instruct the
9 jury that you can only consider this for determining
10 whether Mr. Lucero is telling you the truth here,
11 not for the purposes of the truth of the statements
12 that are going to be relayed to you.

13 Mr. Castle.

14 BY MR. CASTLE:

15 Q. Do you recall telling Toby Romero that the
16 hits on SNM members Garza and Castillo were to be
17 carried out at the same time?

18 A. No, sir, never had that conversation with
19 Toby.

20 Q. Do you recall ordering him to kill Frank
21 Castillo?

22 A. No, sir.

23 Q. Do you recall telling him that you were
24 going to kill Garza, but that he had to kill
25 Castillo?

1 A. No, sir.

2 Q. Do you recall making this exact statement
3 to him, "I'll take care -- I'll take care of Looney
4 over here. You just take care of Frank over there,
5 you know what I mean?"

6 Do you recall that?

7 A. No, sir.

8 Q. Do you recall telling Mr. Romero that your
9 orders were for Michael Rascon to assist Toby Romero
10 in murdering Mr. Castillo?

11 A. No, sir.

12 Q. Did the FBI ever show you interviews from
13 Mr. Toby Romero?

14 A. No, sir.

15 Q. They never showed them to you?

16 A. No, sir.

17 MR. CASTLE: Your Honor, for the record, I
18 understand it may be denied, but I'm moving to admit
19 the interviews that were conducted by the FBI with
20 Mr. Romero.

21 THE COURT: Any objection, Mr. Castellano?

22 MR. CASTELLANO: The objection is hearsay,
23 Your Honor.

24 THE COURT: Yeah, I'll sustain the
25 objection.

1 MR. CASTLE: I'm just going to mark them
2 for the record, Your Honor.

3 THE COURT: All right. You may.

4 MR. CASTLE: For the record, Your Honor,
5 they're BU-2 and BU-3. One is dated June 7, 2001;
6 the other one is July 5, 2001.

7 THE COURT: Okay.

8 BY MR. CASTLE:

9 Q. I want to make sure I get the timeline
10 correct for the jury. I'm going to show you a
11 PowerPoint on the screen. It's a document. Okay,
12 for demonstrative purposes. If we could pull that
13 up at this point in time.

14 If we could go to the first one. In 1999,
15 2000, you began your service on the tabla for Angel
16 Munoz, correct?

17 A. Around that time.

18 Q. Okay. Next. Then on December 6th of
19 2000, you arrive at Southern New Mexico Correctional
20 Facility green pod. That was on your documents. Do
21 you recall seeing that?

22 A. Yes, sir.

23 Q. And Mr. Lino Giron was already there; is
24 that right?

25 A. Yes, sir.

1 Q. The next one. On January 18th, I think we
2 showed, and you agreed, that Big Jake Armijo arrived
3 at Southern New Mexico Correctional Facility, and I
4 think you've indicated that you had made a statement
5 before that he brought orders to hit Garza and
6 Castillo, correct?

7 A. Yes, sir.

8 Q. Go to the next there. On February 5th,
9 Mr. Armijo and Lino Giron are shipped out from
10 Southern. I think we showed that, right?

11 A. Yes, sir.

12 Q. Go to the next. On February 7th, this is
13 something I don't think we've gotten, but do you
14 recall in early February, right around the time that
15 those other two left and you became the shot-caller
16 there, that Eugene Martinez moved in the same pod
17 with you and Mr. Garza?

18 A. Yes, sir.

19 Q. Now, prior to March 13th -- because that's
20 when Jason Hoster left -- prior to March 13th you're
21 told to call Angel Munoz, and you use Jason Hoster's
22 phone, and Angel Munoz reiterates the hit orders
23 that Jake Armijo had already brought down once. Do
24 you recall that?

25 A. Yes, sir.

1 Q. March 23rd, you get out of Southern and
2 start to run drugs on the streets with Angel Munoz,
3 or at least the same time as Angel Munoz, right?

4 A. No, sir.

5 Q. Well, Angel Munoz was on the street, and
6 so were you?

7 A. Yes, sir.

8 Q. And that was after you got out March 23rd
9 of 2001?

10 A. Yes, sir.

11 Q. Let's go to the next one. Three days
12 after you get out, a mere three days, Garza and
13 Castillo are murdered, right?

14 A. Yes, sir.

15 Q. And then between 2001 and I believe around
16 2005, you get details of both murders from seven
17 members of the two hit squads; is that right?

18 A. Yes, sir.

19 Q. Thank you. I'm sorry, there is one more.
20 And in 2005 you were on the tabla, but this time for
21 Gerald Archuleta, right?

22 A. Yes, sir.

23 Q. Now, I want to talk to you about the
24 various interviews you made with the FBI. Okay? I
25 think we already talked about the fact that you

1 talked to them on February 10th of 2011, and we'll
2 get into why you did that in a minute, but I want to
3 talk to you just how your statements have changed
4 over time. Okay?

5 A. Yes, sir.

6 Q. In that first interview with them, you did
7 not tell them anything about Big Jake coming to
8 Southern and bringing hit orders from Angel Munoz?
9 You didn't tell them about that at that time, did
10 you?

11 A. I was confused.

12 Q. Okay.

13 A. On the timeline.

14 Q. Instead, you actually told them something
15 very specific. You said there had only been rumors
16 that Billy Garcia was coming to Southern before he
17 arrived. Do you recall that?

18 A. Yes, sir.

19 Q. Of course, you didn't mention anything in
20 that interview about Lorenzo Mora, did you?

21 A. No, sir.

22 Q. Or Felix Reyes, I take it, right? But
23 during that interview, the FBI showed you a photo of
24 several SNM members that had taken a photo together
25 as a group photo just, I think, 10 days before the

1 murders?

2 A. Yes.

3 Q. You were still there, right?

4 A. Yes, sir.

5 Q. And there was a photo that showed Michael
6 Jaramillo, Angel DeLeon, Joe Gallegos, Eugene
7 Martinez, Chris Chavez, and Ray Molina, were in that
8 photo, right?

9 A. Yes.

10 Q. But you, the head of the whole SNM there,
11 weren't in that photo, right?

12 A. No, sir.

13 Q. You made sure you weren't in that photo,
14 right? Because you were getting out on the streets,
15 right?

16 A. I don't know where I was. I could have
17 been in the infirmary.

18 Q. That first interview, interestingly
19 enough, you didn't mention anything about your good
20 friend Ray Molina confessing or talking to you about
21 the details of the murder, right?

22 A. No, sir.

23 Q. You left that out. But they did ask you
24 about Ray Molina, and the only information you
25 provided on Ray Molina was that he was a married

1 man, right?

2 A. Yes. He was out on the streets, doing
3 good.

4 Q. So it wasn't a matter of you forgot
5 somebody who was involved in the murders; you made a
6 conscious decision, when asked about Ray Molina, to
7 not tell the FBI that he was involved in the 2001
8 murders? "Yes" or "No"?

9 A. I don't remember.

10 Q. You didn't remember then? Or are you
11 saying you don't remember why you left Ray Molina's
12 name out of the first interview?

13 A. I don't know why I left his name out.

14 Q. So two of the people that participated in
15 the killing of Garza -- Molina and Mora -- you left
16 them out of that first interview, correct?

17 A. Yes, sir.

18 Q. By the way, in that first interview they
19 actually asked you about Jacob Armijo. Do you
20 recall that? Big Jake? They asked you some
21 questions about him?

22 A. I don't remember them asking questions.

23 Q. Okay. Well, let's take a look. Page 651,
24 Counsel. This is your interview on February 10th,
25 2011. Do you see that? With Agent Roundy?

1 A. Yes, sir.

2 Q. They asked you about Manuel Jacob Armijo;
3 is that right?

4 A. Yes, sir.

5 Q. And you say, "Big Jake is a soldier, maybe
6 a shot-caller"? Is that right?

7 A. Yes, sir.

8 Q. But you don't say at that point -- they
9 talked to you about the 2001 murders in this
10 interview, right? That was a big focus, right?

11 A. Yes, sir.

12 Q. And you don't tell them that Big Jake
13 Armijo had brought down orders from Angel and talked
14 to you about those orders to kill those two men?
15 You didn't mention it?

16 A. No, sir.

17 Q. But you did talk to them in that interview
18 about a tabla that was formed in 2000 to assist
19 Angel Munoz, right?

20 A. Assist him how?

21 Q. I don't know. You tell me how the tabla
22 assisted, if at all, Angel Munoz.

23 A. In 2006?

24 Q. In 2000.

25 A. No.

1 Q. Did he?

2 A. No.

3 Q. And how did they assist? That's all
4 right, I think we've gone over this.

5 After that interview, the agents, FBI
6 agents, came back the next day to ask you some more
7 questions, right? Do you recall that? Like two
8 days in a row?

9 A. Yes, sir.

10 Q. Now, in that first interview you didn't
11 mention that you had been conducting SNM business
12 all the way up until 2007, at least, right? You
13 never mentioned that? You kind of said you were out
14 of it, you were out of the gang, right?

15 A. Yes, sir.

16 Q. No, sir?

17 A. Yes, sir.

18 Q. And the next day, when they came back to
19 you, they asked you again, "Have you had any
20 activities involving the SNM after you got out in
21 2001?"

22 And you said, "I haven't been involved
23 since 2001, when I got out."

24 Do you recall that?

25 A. Pretty much so, yes.

1 Q. And that wasn't true, was it?

2 A. Well, the thing is --

3 Q. Was it true or not?

4 A. When I was in Lewisburg, I had to act like
5 I was still active, to survive in that surrounding.
6 They knew about it, so I wasn't doing nothing
7 illegal.

8 Q. Okay. Let's stop for a second. Are you
9 saying that after you got out in 2001, March 23,
10 2001, you did no work for the SNM and you were not a
11 member of the SNM?

12 A. I was a member until 2006, 2007, and
13 that's when I started backing off.

14 Q. Right. But in the follow-up interview you
15 did on February 11, 2011, you told them you hadn't
16 been part of the SNM since 2001?

17 A. That might have been a mistake.

18 Q. Okay.

19 A. Because I was a member till I got to the
20 BOP, and then that's when I dropped out.

21 Q. Again, they asked you about Leonard Lujan
22 in the second interview. In the second interview
23 they said, "Hey, we have some questions about
24 Leonard Lujan."

25 Do you recall that?

1 A. No, I don't recall.

2 Q. And do you recall saying the only thing
3 you knew about is maybe he was involved in this '98
4 murder of Felix Martinez?

5 A. That's it.

6 Q. Your third interview was on March 3rd, so
7 it would have been like about two or three weeks
8 later. And this was by the SIS, the Special
9 Investigative Services. They came back and talked
10 to you. Do you recall that?

11 A. Yes.

12 Q. And they were actually sent in to talk to
13 you by the FBI Agent Lance Roundy because he
14 couldn't make it all the way out, himself. Do you
15 recall that?

16 A. Yes, sir.

17 Q. And they had some questions for you about
18 some of the information you'd provided earlier. Do
19 you recall that?

20 A. I don't.

21 Q. Well, at that point in time you told them
22 that the tabla that you were on in 2005 and '06 --
23 so you admitted at this point in time you were still
24 part of SNM -- that that tabla ordered the murders
25 of two people, Pablo Horcasitas in 2005, and Miguel

1 Gallegos in 2005. Do you recall that?

2 A. They put a hit on them.

3 Q. Okay. That's ordering a murder of the two
4 people, right?

5 A. Yes.

6 Q. And that was your tabla you sat on?

7 A. That's what they were saying.

8 Q. Okay.

9 A. They were asking me about that.

10 Q. They actually asked you who was on the
11 tabla, and you gave names, but you didn't give your
12 own name?

13 A. I wasn't on the tabla no more. I was in
14 the BOP. I left the state and went to the BOP.

15 Q. Not in 2005, sir.

16 A. Yeah, 2006, I went to -- I got arrested in
17 2006.

18 Q. 2005, you were on the tabla for Styx?

19 A. Yes, sir.

20 Q. And that's what they're talking to you
21 about, is in 2005, the tabla ordering the murders of
22 these two individuals, Horcasitas and Gallegos. And
23 you said, "Yeah, the tabla did it," but you don't
24 say that you're a member of the tabla?

25 A. No, sir.

1 Q. And, again, they asked you on that day,
2 "Was Ray Molina involved in the 2001 murders?" And
3 do you recall what you told them?

4 A. No, I don't recall.

5 Q. You said you may have heard about that,
6 but he never talked to you about it.

7 A. Probably.

8 Q. But that's not true.

9 And again on that date, you don't tell
10 them anything about Mora, Lorenzo Mora, or Lujan?

11 A. Sure.

12 Q. And it was at that meeting, when they came
13 back to you -- that was the third time -- they
14 started questioning you about whether Big Jake was
15 involved in that murder. Do you recall that?

16 A. I don't recall.

17 Q. Well, do you recall that was the first
18 time that you admitted to them that Big Jake brought
19 orders down to kill Garza and Castillo from Angel
20 Munoz while you were at Southern?

21 A. Been a long time, so I don't remember.

22 Q. But you don't dispute that, right?

23 A. I don't.

24 Q. Now, Agent Roundy kept coming back and
25 having you -- asking some questions, right?

1 A. Yes, sir.

2 Q. There would be times when the SIS would
3 say, "Come here; we've got to call Roundy; he has
4 some further questions for you." Do you recall
5 that? Numerous times, right?

6 A. Yes, sir.

7 Q. Now, I don't want to talk about each one,
8 but on May 18, 2001, this would have been --
9 whatever -- about four months after you started
10 talking to them, you'd given four interviews by that
11 time. And do you recall that Agent Roundy told you,
12 look, he needed the truth from you? Actually, he
13 had flown from New Mexico all the way to
14 Pennsylvania to speak to you at the prison, and he
15 told you it was important for you to tell all the
16 truth. Do you remember that?

17 A. Yes, sir.

18 Q. And that would have been, I think, 16 days
19 after that letter that you wrote to --

20 A. Every time that he --

21 Q. Hold on. Hold on. That would have been
22 16 days after -- oh, no. I'm sorry. That was the
23 next year.

24 But on that date, he told you he needed
25 you to tell all the truth. But you still didn't

1 tell him about Mora and Molina talking to you about
2 the details of the murder?

3 A. Every time he spoke with me, he told me
4 about the truth. And I told him the truth.

5 Q. Well, why would you hold back information
6 about talking to Mora and Molina? Is there a good
7 reason?

8 A. No. I might have just forgot.

9 Q. Or you might have been protecting
10 yourself?

11 A. Why should I protect myself?

12 Q. Well, when you began talking to the FBI --
13 and the reason you did it is because you were
14 concerned that you would get thrown into a RICO
15 charge for your involvement?

16 A. No, sir.

17 Q. You don't recall ever telling anyone that?

18 A. I got tired. The RICO wasn't even coming
19 involved. I just -- after I left the gang, I was
20 tired of it. Those are my choices. I made that
21 choice.

22 Q. We'll come back to that in a minute, but
23 let's talk about what the situation was. You went
24 to the federal prison in 2007; is that right?

25 A. Yes, sir.

1 Q. And you got -- that was for possessing,
2 not just a shotgun, but a sawed-off shotgun, right?

3 A. No, sir, it wasn't a sawed-off shotgun.

4 Q. It's not a sawed-off shotgun?

5 A. It wasn't a sawed-off shotgun.

6 Q. Did you see the police reports that say
7 it's a sawed-off shotgun?

8 A. It's a manufactured Mossberg. It wasn't a
9 sawed-off. I would have only got ten years if that
10 was a sawed-off.

11 Q. Well, the sawed-off part is where you take
12 the manufactured Mossberg and you saw the end of it
13 off so you can hide it under a jacket --

14 A. No, sir.

15 Q. -- when you want to go commit some kind of
16 crime?

17 A. It wasn't a sawed-off.

18 Q. Well, we'll go back to the documents. But
19 you've seen documents that show it's a sawed-off
20 shotgun?

21 A. It's not a sawed-off.

22 Q. Have you seen documents that show that?

23 A. That that's the gun that I possessed?

24 Q. Yes.

25 A. Yes, I know what I got convicted of.

1 Q. A little bit later, on June 15, 2011 --
2 that would have been another, like your fifth
3 interview -- once again, Roundy is saying, "Look,
4 Leroy, it's really important to tell the whole
5 truth."

6 Do you recall? And you finally confirmed
7 that at that point in time, in 2011, that many SNM
8 members looked to you for direction and approval to
9 conduct SNM murders. Do you recall that?

10 A. No, that's not true.

11 Q. Well, let's take a look at the report.

12 A. They'd ask for advice.

13 Q. Let me show you a report dated June 15,
14 2011, page 2737. Do you recall -- this is June of
15 2011, four years after you have told this jury you
16 stopped doing any work with the SNM?

17 A. Okay.

18 Q. That SNM members looked to you for
19 direction and approval to conduct SNM hits. Do you
20 see that? Is that correct or not? "Yes" or "No"?

21 A. Yes, that's correct. But they knew --

22 Q. I know you might --

23 A. I had to --

24 Q. Hold on. Hold on. That's all I asked
25 you.

1 A. Oh, man.

2 Q. Well, let's talk. Okay? You actually
3 even tell them that a guy by the name of Ben Clark
4 informs people from a particular region in New
5 Mexico to seek approval from you before conducting
6 any SNM business; is that correct? "Yes" or "No"?

7 A. I was --

8 Q. Is that what you told them?

9 A. I was pretending that I was active, sir.
10 I had to. I was in a bad situation out there. I
11 had to act like I was active. They knew I was a
12 drop-out. I was going through a debrief.

13 Q. You were pretending from 2007 --

14 A. Yeah. I had to. I was around active gang
15 members, Surenos, Nortenos, you name it. I had to
16 act like I was still solid.

17 Q. You had to act like you were --

18 A. Yes, sir.

19 Q. -- approving the death sentence of human
20 beings?

21 A. No, I never approved --

22 Q. That's wrong?

23 A. That's wrong. Yes, sir, that's wrong.

24 Q. They got it down wrong?

25 A. They got it down wrong right there, sir.

1 Q. Well, what happened after you went to
2 Victorville? Do you recall there being some other
3 prison gang members there?

4 A. There was a lot of prison gangs.

5 Q. Well, the biggest one of all was the Eme,
6 the Mexican Mafia, right?

7 A. There was two Emes, 1,000 Surenos.

8 Q. Okay. Mexican Mafia, really powerful?

9 A. Two members. The rest were all Surenos.

10 Q. Only two members there in the entire
11 California, Victorville --

12 A. Victorville.

13 Q. Let me finish. The entire California,
14 Victorville Federal Penitentiary, you're telling
15 this jury they only had two Mexican Mafia members?

16 A. Two Mexican Mafia members. The rest were
17 Surenos.

18 Q. Well, you got into it with a couple of
19 them, right?

20 A. I had words with one.

21 Q. Well, you got stabbed by them, didn't you?

22 A. I never got stabbed.

23 Q. Well, we'll go back to that in a minute.
24 That's the reason you went to Lewisburg, right?

25 A. No.

1 Q. Going back to whether you were still
2 active in 2011, do you recall that you were -- in
3 2011, that you were expecting some papers from SNM
4 member Kenneth Ulibarri regarding a hit or a murder
5 of a person who was considered a snitch by you, by
6 the name of Jose Montoya? Do you recall that?

7 A. Yeah, I do recall that.

8 Q. And they had to go to you to get the
9 formal okay for the hit?

10 A. No, sir.

11 Q. Let's take a look again. 2736, Counsel.
12 Do you recall telling the FBI on June 15th
13 that Ulibarri was going to send court documents to
14 you -- I'm sorry -- to you, SNM leader Leroy Lucero,
15 that indicated Ulibarri had cooperation with law
16 enforcement? Okay? Do you see that?

17 A. Yeah. Like I said earlier, I had to
18 portray I was active. Who had that -- who got that
19 paperwork? SIS, the FBI. I didn't. I just got
20 that paperwork for them in there.

21 Q. You didn't have to portray that?

22 A. Yes, I did.

23 Q. You dropped out at that time?

24 A. I was a drop-out at that time. I was
25 going through a debrief at that time.

1 Q. What I'm getting at, sir, is that you say
2 you dropped out in 2007 or 2008?

3 A. I was on my way out. I didn't drop out
4 till later.

5 Q. Yeah. You've looked at your BOP file,
6 right?

7 A. Yes.

8 Q. And it doesn't show you dropped out in
9 2007, 2008, does it?

10 A. No, because I already went to the feds in
11 2007.

12 Q. You only dropped out when you were on the
13 verge of going to ADX and having to be housed with
14 Mexican Mafia members, where you would be executed?

15 A. That's not true. If that's what it called
16 for. But that's not true, sir. I went to a Special
17 Management Unit. And from there, I went to
18 protective custody throughout the BOP.

19 Q. Let's talk about that. What Special
20 Management Unit is, there are tiers at federal
21 prison, right? Different kinds of security levels;
22 is that right?

23 A. No, sir.

24 Q. Well, there's prison camps, right? That's
25 the lowest security level?

1 A. Okay.

2 Q. Then there's FCIs, Federal Correctional
3 Institutes, right?

4 A. Yes, sir.

5 Q. And that's where you first started when
6 you went into the federal pen, was at FCI
7 Victorville, right?

8 A. Yes.

9 Q. Then if you do badly there, you go to a
10 USP, United States Penitentiary, right?

11 A. Yes.

12 Q. And when you were at Victorville, you got
13 caught on three different occasions with shanks,
14 right? Do you recall that? Pretty long-bladed
15 shanks?

16 A. Yeah. They should issue you one once you
17 drive up, because that's just prison.

18 Q. Okay. I guess, unfortunately for you,
19 they punished you for that and put you in a USP,
20 right?

21 A. Everybody, yeah.

22 Q. And that was after you'd gotten in trouble
23 with some Mexican Mafia guys, right?

24 A. No, sir. I don't know where you got your
25 information from, but that's not true.

1 Q. Well, the highest classification at a USP
2 is the Special Management Unit, right?

3 A. No, there is ADX.

4 Q. Okay. Now, there is a Special Management
5 Unit at Lewisburg that you spent nearly three years
6 in.

7 A. Six years.

8 Q. Six years. Not ADX. In Lewisburg?

9 A. Lewisburg.

10 Q. Okay. So in USP, if you're really a bad
11 actor, you go up to a Special Management Unit;
12 correct?

13 A. Well, the BOP transfers you around. You
14 could fart loud in the court, or if someone put a
15 kite on, you go into the Special Management Unit.
16 When you go to the SHU and they don't know what to
17 do with you, they just send you somewhere else.

18 Q. Let's talk about that. Special Management
19 Unit is where you're locked down 23 hours a day, and
20 you only get an hour out for exercise?

21 A. You work your way out of there.

22 Q. Okay. And it normally takes 18 months to
23 work your way out of there, right?

24 A. Yes, sir.

25 Q. For you, it took six years?

1 A. Yes, sir.

2 Q. It wasn't until you came forward and
3 started to -- let me finish -- until you started
4 working with the FBI that you were allowed out of
5 the Special Management Unit?

6 A. No. I was done with that program in three
7 years. Yeah, I got into some shit at the beginning.

8 Q. The reason you were in the Special
9 Management Unit wasn't because you farted?

10 A. Okay.

11 Q. Okay? It was because you were a violent
12 individual in the prison?

13 A. No, sir.

14 Q. You held shanks on numerous occasions.
15 And the authorities couldn't manage you, except to
16 lock you down 23 hours a day? "Yes" or "No"?

17 A. No.

18 Q. You've seen your BOP file. That's what's
19 documented in there; correct?

20 A. Yes, sir. But, you know, that's prison.

21 Q. And, in fact, you were written up and
22 found to have committed an assault within six months
23 of you coming and talking to the FBI, right?

24 A. No, sir.

25 Q. You don't recall a fight with Fred

1 Gallegos -- Frankie Gallegos?

2 A. That was politics.

3 Q. Oh, okay. Politics.

4 A. He was an active.

5 Q. I want to show you something, sir.

6 A. I was a drop-out. He had to assault me.

7 Q. Hold on. The question is over.

8 You were talking about shanks that you had
9 while you were in prison. I'm going to show you --
10 is that one of the shanks that you would carry, and
11 you got in trouble for that, got you into the
12 Special Management Unit?

13 A. It could have been. I got caught with a
14 few of them. I'm not going to sit here and lie to
15 you about that.

16 Q. You see the measurement here, one, two,
17 three, four, five, that's six --

18 A. That's a pretty one, no?

19 Q. Oh, pretty, huh?

20 A. Sure.

21 Q. It looks like seven, eight, maybe nine
22 inches long, right?

23 A. That's prison, sir.

24 Q. I guess beauty is in the eye of the
25 beholder.

1 A. That's prison. What do you expect in
2 prison? I didn't say I was a saint, sir. I
3 didn't -- hey, everybody had shanks in there.
4 That's just what the whole prison --

5 Q. Excuse me, sir?

6 A. The majority of the people in BOP --

7 Q. Excuse me, sir. Not everyone ends up in
8 the Special Management Unit of the United States
9 Penitentiary, okay? Not everybody does. Many
10 inmates spend time in less secure places.

11 A. Yeah.

12 Q. Because they behave themselves, correct?
13 "Yes" or "No"?

14 A. I didn't have that opportunity.

15 Q. You didn't have the opportunity to behave
16 yourself?

17 A. My points led me to an FCI from there.
18 Yes, I did get caught with a shank. They did send
19 me to a USP.

20 Q. Three shanks?

21 A. Yes.

22 Q. Three different occasions?

23 A. They should issue them to you when you
24 drive up. That's just that world, sir. That was
25 back then, you know what I mean?

1 Q. Did they issue you a shank? Was it an
2 issued shank that you wanted to cut open Frankie
3 Gallegos' throat with a year after you'd started
4 working with the FBI?

5 A. At that time, I was pissed off. Of
6 course, I said some stupid shit. I'm not going to
7 deny it, sir.

8 Q. Well, you did until I showed it to you.

9 A. Yeah.

10 Q. Right. Now, in 2011 do you recall that
11 when the FBI was talking to you, that they started
12 questioning you about some drug dealing that you
13 were doing in prison?

14 A. I never sold drugs in prison, sir.

15 Q. You didn't deal chiva in prison?

16 A. Never.

17 Q. Never?

18 A. I used it. I didn't sell it.

19 Q. I want to go back to where you got in
20 trouble with the Mexican Mafia.

21 A. Okay.

22 Q. Do you recall that you got in an argument
23 with several leaders of the Mexican Mafia, also
24 known as the Eme, while serving time in federal
25 prison in Victorville; that you were supposed to pay

1 the Eme money for dealing chiva in the prison, but
2 did not? That individuals known as Campion, Night
3 Owl, Gato, Negro, and Big Roo, all members of the
4 Eme, put an order out for you to be punished?

5 A. That's not true.

6 Q. That did that happen?

7 A. That's not true. Because the words I
8 had -- the person I had words with was Huero Sherm,
9 not all them other guys. So where you got that
10 information, sir, that's not true. And that was
11 over politics of the Sindicato of New Mexico and the
12 Syndicate right under the Eme in the BOP.

13 Q. Let's ask you about this. Okay? After
14 you got transferred to the penitentiary, okay, from
15 the correctional institute --

16 A. Yes, sir.

17 Q. -- you also got written up again another
18 two times for possession of a dangerous weapon. Do
19 you recall that?

20 A. One was mine.

21 Q. "Yes" or "No"?

22 A. One was mine.

23 Q. Only one?

24 A. One was mine.

25 Q. You got written up twice?

1 A. One was mine, and one was my cellie, which
2 was -- but yes, sir, one was mine.

3 Q. Hold on.

4 A. I'm not denying that.

5 Q. The United States Penitentiary is the last
6 stop before the prison, ADX, right?

7 A. They say. They say.

8 Q. The ADX is in Florence, right?

9 A. Yes, sir.

10 Q. And it is considered the most secure
11 prison in the country?

12 A. That's what they say.

13 Q. You try to avoid it if you can; correct?

14 A. Yeah. Who wants to be in there?

15 Q. Because ADX has people like El Chapo in
16 it?

17 A. He's in Chicago probably, not the ADX.

18 Q. Unabomber? Like people who killed those
19 people --

20 A. Yes.

21 Q. -- on September 11th?

22 A. Yeah. Those are bad guys right there.

23 Q. Right. But it has a whole bunch of Eme,
24 the Mexican Mafia members, right?

25 A. Yeah, they had a lot out there. Campion.

1 All them. I know them.

2 Q. As an inmate, especially a gang inmate,
3 you kind of hear about kind of the bigger, most
4 infamous acts that various gangs do around the
5 country in prisons? I mean, if somebody -- if a
6 gang really pulls something great off, you hear
7 about it, right? They talk about it?

8 A. Yes, sir.

9 Q. At ADX, right, you were actually being
10 threatened with being moved to ADX; correct?

11 A. No, sir. I didn't meet the criteria.

12 Q. Didn't you recall writing to people about
13 the fact that --

14 A. I was boasting. I was acting --

15 Q. Excuse me?

16 A. I was just talking shit.

17 Q. Okay. So you wrote people about almost
18 going ADX, but it was just shit?

19 A. Yeah, just like bad.

20 Q. Okay. In any event, one of the most
21 infamous prison murders of all time is the Mexican
22 Mafia killing somebody at ADX. Do you recall that?

23 A. I don't, sir.

24 Q. That was what was facing you because you
25 --

1 MR. CASTELLANO: Objection as to
2 relevance, Your Honor.

3 THE COURT: I think we're getting far
4 afield. Sustained.

5 Q. You have told us that the reason you came
6 forward is because you were tired of doing the SNM
7 work, right?

8 A. I got tired, sir. I don't want to be a
9 slave to somebody else. I want to take care of my
10 responsibilities.

11 Q. And I think you denied that it was because
12 you saw the RICO coming?

13 A. No, sir. No, sir. I didn't even know
14 nothing about that. I dropped out because I wanted
15 to. They were going to hit me anyway. They were
16 going to come after me anyway for getting Frankie G.

17 Q. And you said that, I think, you did it
18 because you wanted to do the right thing?

19 A. That what?

20 Q. That you came forward and cooperated with
21 the FBI because you thought it would be the right
22 thing?

23 A. That was part of my debrief. That's why I
24 went to the FBI.

25 Q. Okay. Well, again, on January 18th, do

1 you recall a questionnaire the FBI gave you to fill
2 out? February 2017? Or I think it's dated February
3 2017, but they gave it to you just this year, in
4 January?

5 A. Probably.

6 Q. Okay. And do you recall one of the
7 questions was, "Why did you agree to cooperate with
8 the FBI?" Do you recall that question being asked?

9 A. And I stated --

10 Q. No, no. I'm just asking, do you remember
11 the question?

12 A. And I stated --

13 Q. No. Do you remember the question?

14 A. Yes, sir.

15 Q. And your answer was, "I saw the RICO
16 coming"?

17 A. Well, it was coming.

18 Q. Okay.

19 A. But later on, before or after --

20 Q. Hold on. "I saw the RICO coming. Only
21 way out. I didn't want to fake Christian." So
22 that's the reason you cooperated with the FBI,
23 according to your own words?

24 A. I cooperated with the FBI --

25 Q. Is that what you stated in the

1 questionnaire, sir?

2 A. That was part of it.

3 Q. Is that what you stated in the
4 questionnaire, sir?

5 A. Yes, I guess, if that's what it says
6 there.

7 Q. Nobody -- nobody forced you to put down in
8 writing --

9 A. The RICO was coming from a long time ago,
10 sir.

11 Q. Let me finish. They said, "Fill this out
12 on your own," right?

13 A. Yes.

14 Q. This is your words.

15 A. The RICO -- I was seeing the RICO in the
16 past, not this new one. I didn't see this one
17 coming. I didn't see it coming. You're trying to
18 put words in my mouth, sir.

19 Q. So you saw a RICO coming in 2011, right?

20 A. I seen the RICO coming a long time ago.

21 Q. So the reason you're here isn't out of any
22 duty or sense of loyalty?

23 A. No, that's --

24 Q. Let me finish the question. It was
25 because you were trying to cut your losses?

1 A. No, sir, that's not true. That's not
2 true.

3 Q. Trying to get out of going to the ADX or
4 being shoved in a hole 23 hours a day for the rest
5 of your life?

6 A. No, sir, that's not true.

7 Q. Well, okay.

8 A. If that's your story, you can stick with
9 it.

10 Q. After you started cooperating, did you
11 eventually go to Tucson?

12 A. Yes, protective custody.

13 Q. That's a little better place, right?

14 A. Yes, sir.

15 Q. And there --

16 A. Because I was a drop-out.

17 Q. Okay. And there, you were put in a SHU?
18 Not an SMU, but a SHU, a Special Housing Unit,
19 right?

20 A. Any kind of misconduct, you go to the SHU.

21 Q. Okay. But let's talk about the misconduct
22 that put you in the SHU in Tucson.

23 A. Excuse me?

24 Q. Let's talk about the conduct that got you
25 put into the SHU in Tucson, okay?

1 A. What was it?

2 Q. Let me just -- here's a question --

3 MR. CASTELLANO: I'll object to relevance
4 and 404(b).

5 THE COURT: I guess I'm wondering why so
6 much detail is necessary.

7 MR. CASTLE: Can I ask a couple of
8 questions? The Court might see the relevance.

9 THE COURT: Well, let's really get to the
10 point. We are really getting bogged down in
11 details.

12 BY MR. CASTLE:

13 Q. In 2015, you gave false information to the
14 FBI about a murder that was happening at Tucson; and
15 that because of that, they then made you go into a
16 Special Housing Unit because you had sent them on a
17 wild goose chase, right?

18 A. No, sir. No, sir. I was approached --
19 can I answer the question?

20 Q. No. You did. You said, "No, sir."

21 62478. June 10th, 2015. Okay.

22 A. I know where you're going. I know where
23 you're going. But that's not true.

24 Q. She can't take down both of us talking.

25 A. Then let me answer my question.

1 Q. I haven't asked one yet, sir. So listen.

2 A. Go ahead.

3 Q. Is this a letter dated June 10th, 2015,
4 U.S. Department of Justice?

5 A. Okay.

6 Q. Is that a letter that's dated that date
7 from the Department of Justice? "Yes" or "No"?

8 A. Yeah, it's from the DOJ.

9 Q. Okay. And, in fact, you got busted
10 because -- busted into it -- because you had
11 provided false information that turned out to be
12 unsubstantiated about a murder that you said was
13 occurring at --

14 A. That was going to occur. That was going
15 to occur. Somebody approached me. And I approached
16 SIS, and I told them what was going on. It wasn't
17 false. They just put a stop to it.

18 And I went to the SHU for a fight, sir.
19 It wasn't about giving false information, which is
20 where you're going. It was for a fight. I know
21 what I went to the hole for.

22 Q. And you say --

23 A. That's --

24 Q. -- that you looked at your BOP file,
25 right?

1 A. No, I've never seen my BOP file.

2 Q. We just talked about it. You said you got
3 a copy of it.

4 A. My BOP file? I never got a copy of my BOP
5 file. Nobody gets a copy of your BOP file, unless
6 you court order it.

7 Q. Do you recall having a hearing where they
8 tell you why they're putting you in the SHU?

9 A. PHD, prehearing detention. Yes, sir.

10 Q. And do you recall the fact that they put
11 you in the SHU was because they determined the
12 information that you provided -- let me finish -- on
13 a planned murder at the facility turned out not to
14 be true?

15 A. It's not true, sir. That's not true. I
16 just told you why I went to the SHU.

17 Q. Well, you'd at least agree with me that
18 the Bureau of Prisons, Department of Justice, found
19 it was unsubstantiated?

20 A. Yeah. There was no evidence to it.
21 Because they put a stop to it, they didn't have to
22 pursue. And I'm the one that notified --

23 Q. Excuse me, sir. Let's try to finish this
24 up.

25 In all the interviews that you talked to

1 the FBI with, and in fact with these prosecutors,
2 you never mentioned that incident at the Tucson
3 facility, did you? "Yes" or "No"?

4 A. No.

5 Q. And the reason they didn't ask you about
6 it was because it was only until the defense
7 subpoenaed your Bureau of Prisons file, right?

8 A. I don't see the relevance of that.

9 MR. CASTLE: Your Honor, may I inquire
10 about the letter that we talked about earlier?

11 THE COURT: Yeah. Why don't y'all
12 approach and I'll give you a ruling on that.

13 (The following proceedings were held at
14 the bench.)

15 THE COURT: It's a little hard to
16 decipher, so I did the best I could, typing up the
17 sections. So on the first section, is everybody
18 familiar if I use that? Do I need to repeat what's
19 said in the sections? You don't know what the
20 sections are? Okay.

21 So the first one says, "I never been hit,
22 I've done the pedo, but never got caught..Chulo or
23 whoever else wants to talk shit, they can run their
24 mouths. These so-called brothers here in the Feds
25 are weak, soft-ass bitches who can't" -- and it's

1 unintelligible -- "for us, but they'll try to do
2 another onda's dirty work."

3 So I believe what Mr. Castle is trying to
4 do is, he wants to use this statement to show that
5 Mr. Lucero's participation in the SNM persisted even
6 after Mr. Lucero says he renounced his gang activity
7 in 2007, but I'm not sure how Mr. Lucero's
8 participation in SNM is relevant, except as
9 impeachment by contradiction. And I think this is
10 going to be on a collateral matter, or it's going to
11 be to impeach Mr. Lucero for character, for
12 truthfulness.

13 I think we're getting into extrinsic
14 evidence and 608(d), so I'm going to sustain the
15 objection, and that portion of the letter will not
16 come in.

17 MR. CASTLE: Can I make just a brief
18 record on that, Your Honor? I don't want to do that
19 with everyone. This is a little different, Judge.
20 Chulo, the person that he's talking about here, is
21 the guy that is -- his name is Alex Sosoya. What
22 the evidence is going to show is that they believe
23 that Garza was killed because Chulo put out the word
24 for him to be murdered.

25 So when he's saying, "I've done the pedo"

1 -- which means the work -- "but never got caught,
2 Chulo or whoever wants to talk shit, they can run
3 their mouths," what he's talking about, that's an
4 admission to this murder. That's our position.

5 THE COURT: Okay.

6 MR. CASTELLANO: That's a lot of reading
7 between the lines.

8 THE COURT: Yeah, I'm just not seeing that
9 in that. But I'll give it some thought.

10 Let me go to section number 2. This is
11 where, if I'm interpreting it correctly, "Even the
12 shot" -- and it says (report) in parens -- "they" --
13 unintelligible -- "need for fighting with Frankie G
14 (rat). I didn't push him like the report said. I
15 gave him a hook shot, but he slipped it so it didn't
16 catch him right. Next time! -- unintelligible --
17 shot right to the neck, ha, ha, yeah."

18 Now, I believe that what Mr. Castellano
19 wants to use this passage for is to contradict
20 Mr. Lucero's testimony that he never tried to give
21 Frankie Gallegos a hotshot, and Mr. Lucero's
22 testimony regarding whether he wants to stab Frankie
23 Gallegos in the neck.

24 One problem with this statement is that I
25 think the handwriting says "hook shot." Perhaps it

1 means a kind of punch or attack, and not a hotshot,
2 an attempt, which I've learned, to kill someone by
3 making it look like a heroin overdose.

4 The second problem is, I'm not sure
5 whether Mr. Lucero attempted to give Frankie
6 Gallegos a hotshot is relevant, except as
7 impeachment by contradiction. And, again, I think
8 we're getting into collateral matters. Mr. Lucero's
9 statement indicating he plans to stab Frankie
10 Gallegos in the neck I think is admissible for its
11 truth as a statement of the declarant's
12 then-existing plan.

13 So I think if you're trying to get this
14 under 803(3), I think that's the hearsay exception.
15 So I think it's admissible hearsay, but I don't see
16 how it's relevant. Mr. Lucero testified
17 inconsistently, but whether Mr. Lucero plans to stab
18 Frankie Gallegos in the future seems like a
19 collateral matter.

20 So I'm going to sustain the objection and
21 not allow that section in.

22 Then go to number 3, section 3. "I made a
23 good chunk of dollar last year here, but it's hard
24 to keep the flow." And then it's unintelligible.
25 Then it says, "Como."

1 I believe that what Mr. Castle wants to
2 use this statement to show is that Mr. Lucero's
3 participation in the SNM persisted even after
4 Mr. Lucero says he renounced the gang in 2007.
5 Again, I'm not sure how Mr. Lucero's participation
6 in SNM is relevant, except as impeachment by
7 contradiction, again, on the collateral matter, or
8 to impeach Mr. Lucero for character, for
9 truthfulness. But it's, again, with extrinsic
10 evidence, so I think we're in a 608(d) situation.
11 So I'm going to sustain the objection there.

12 And then finally, section 4. "Oh, yeah, I
13 heard Wedo Troup is getting short" -- that seems to
14 be a question mark -- "the Grinch who stole
15 X-mas!" -- I guess that's a misspelling, so (sic)
16 there, part of that -- "one, huh!"

17 I think "getting short," as I've learned,
18 might mean that Troup is getting short to the door.
19 He's going to be released soon. But, again, I don't
20 see how that's relevant.

21 So I'm going to sustain the Government's
22 objections to all four of the sections in the letter
23 which has been marked as Exhibit B-1, and I'm not
24 going to permit the introduction of the letter.
25 I'll sustain the objection to it.

1 MR. CASTLE: Your Honor, there were two
2 other areas that perhaps weren't highlighted, and I
3 apologize if they weren't. There was one where he
4 says, "Yeah, when I spoke to Styx, he told me that
5 that vato not to be trusted." The fact that he's
6 still talking to Styx, who is an SNM member, in
7 2012, and talking about what vato is not to be
8 trusted, shows that he's still in the SNM.

9 And the second one is, he's talking about
10 his blood brother who is hanging with the Surenos.
11 And he says these people are his family. He better
12 stay out of my way or he's going to catch one also,
13 which is in the language we've heard. What he's
14 saying is, his own brother, because he's hanging out
15 with Surenos, he's going to catch either a stabbing
16 or some kind of hit from this witness, which I
17 believe would show he's still in the gang as of
18 2012.

19 THE COURT: I think on that first one, I
20 probably have already ruled, given these other two
21 sections. I'll think about the other.

22 Why don't you take your -- I'm going to
23 have these marked as clerk's exhibits, so mark up
24 the other two so we have a clear record here. And
25 I'll give some thought on that last one, the fifth

1 one.

2 The first one, as I mentioned, I think
3 probably my other rulings will cover that.

4 And then I'll give some thought to the
5 last one.

6 MR. CASTLE: Can I do the mark-up while
7 other people are doing cross? And then if the Court
8 allows it, I'll just do it on redirect.

9 THE COURT: That's fine. But you'll give
10 me that one back?

11 MR. CASTLE: Yes.

12 (The following proceedings were held in
13 open court.)

14 THE COURT: All right. Mr. Castle.

15 BY MR. CASTLE:

16 Q. Mr. Lucero, have you been paid by the FBI,
17 since 2011, some money?

18 A. No, sir.

19 Q. You haven't received any money on your
20 books or anything like that?

21 A. I got some money to make phone calls.

22 Q. It's been indicated to us that you've
23 received \$7,350 in payments, and \$522.90 for
24 telephone expenses.

25 A. It was for both.

1 Q. What's that?

2 A. It was for both.

3 THE COURT: Why don't you sit up so we can
4 hear you. Thank you.

5 A. It was for both, conversations on the
6 phone and to fly my family out.

7 Q. Well, did you get -- okay. Let's leave
8 the telephone out of it. Okay?

9 A. Okay.

10 Q. \$7,350 in payments?

11 A. Yeah. I guess. Yeah.

12 Q. Almost all of them in 2011 and the first
13 half of 2012, right?

14 A. Yeah, around that area. Yes, sir.

15 Q. I want to talk to you about some of the
16 work you put in for the SNM that wasn't talked about
17 before. In 2004, you put a hit on an inmate by the
18 last name of Deyapp, D-E-Y-A-P-P. Do you recall
19 that?

20 A. I never put a hit on him.

21 Q. I'll show you this document. "Inmate
22 Leroy Lucero placed a hit on him" -- meaning Robert
23 Deyapp -- "for refusing to obey an order from
24 someone else in the SNM." Do you see that?

25 A. No, what happened there is, I wanted to

1 get Deyapp. I didn't put a hit on him. I wanted to
2 get him at that time.

3 Q. Okay.

4 A. So I never put a hit on him. I just
5 wanted to assault him.

6 Q. Okay. Did you?

7 A. No, sir.

8 Q. Never got the opportunity?

9 A. Yeah, I did, but we settled it in a
10 different manner.

11 Q. Well, the reason you wanted to hit him was
12 because he refused to kill two inmates for you?

13 A. No, sir.

14 Q. Isn't that what this document is talking
15 about?

16 A. If that's what that says, but I'm telling
17 you what it was about.

18 Q. Well, the FBI has asked you what you did
19 to earn your bones; is that right?

20 A. Yes.

21 Q. And you told them you stabbed a few people
22 for the SNM?

23 A. I've assaulted a couple.

24 Q. Ordered some murders?

25 A. No, sir.

1 Q. You didn't do that on either tabla?

2 A. No, sir.

3 Q. It just never came up either time you were
4 on the tabla? It just never came up?

5 A. No, sir.

6 Q. You shot a man in 2002 over a \$20 rock of
7 crack cocaine. Do you recall that?

8 A. I took the rap for that. Yes, I do recall
9 that.

10 Q. Well, what happened was, you went to
11 someone's house, knocked on the door --

12 A. Okay.

13 Q. -- told them you wanted to buy crack, and
14 they said, "You're crazy, you've got the wrong
15 house," and shut the door, and then you broke in the
16 door --

17 A. No, sir.

18 Q. -- and shot the occupant. You don't
19 recall that at all -- hold on. Let me just see if I
20 can refresh your memory about that.

21 A. You weren't there. You don't know the
22 story. I'll tell you. I'll tell you, Mr. Castle.

23 Q. Stop, stop, stop, stop.

24 A. Let me answer.

25 Q. Another one of the convictions you had was

1 for aggravated battery?

2 A. Okay.

3 Q. Right?

4 A. Yes, sir.

5 Q. And you pled guilty to that?

6 MR. CASTELLANO: Objection on 609, Your
7 Honor.

8 THE COURT: 609. Sustained.

9 MR. CASTLE: Your Honor, I would just
10 encourage the Court to think -- the Government put
11 his character at issue, generally.

12 THE COURT: I've ruled on this in a motion
13 that you filed.

14 BY MR. CASTLE:

15 Q. In any event, you were convicted of that,
16 right? And your testimony is that you took the rap
17 for someone else?

18 A. Yes, sir.

19 Q. Did you also get convicted at that time
20 for an assault, aggravated assault?

21 A. That was the case. It went that way.

22 Q. There were two of them. You had one
23 conviction for aggravated battery, and that was on a
24 non-police officer; and then an aggravated assault
25 on a police officer. Do you recall that?

1 A. No, sir. I've never got an assault on a
2 peace officer. I've been assaulted by peace
3 officers.

4 Q. To make sure, you've had convictions for
5 aggravated assault with a deadly weapon?

6 A. Yes, sir.

7 Q. Aggravated battery with a deadly weapon?

8 A. Yes, sir.

9 Q. Possession of controlled substance?

10 A. Yes.

11 Q. Felon in possession of a firearm?

12 A. Yes, sir. No peace officer there. And
13 there is an escape from jail, also.

14 Q. Yes.

15 A. But that's my history. That's the past,
16 sir.

17 Q. Hold on. Well, let's talk about your
18 present.

19 A. Okay.

20 Q. You've admitted to the FBI and to the U.S.
21 Attorney's Office being a member of the SNM for a
22 good length of time, right?

23 A. Yes, sir.

24 Q. We could debate about when it started and
25 when it began, but you admitted that during the time

1 you were an SNM member, you sat on the tablas for
2 two of the number one leaders at that time, correct?

3 A. Yes, sir.

4 Q. And you committed assaults?

5 A. Yes, sir.

6 Q. And you stabbed people?

7 A. Yes, sir.

8 Q. And you have participated in discussions
9 where the deaths of human beings --

10 A. No, sir.

11 Q. -- were discussed?

12 A. No, sir.

13 Q. You never did?

14 A. No, sir. No, sir.

15 Q. Tell us what you've been charged with in
16 this violent -- these RICO charges.

17 A. You know what I've been charged with.

18 Q. You haven't been charged with anything.

19 A. Exactly. I have not done nothing.

20 Q. You've never done anything? You've never
21 committed --

22 A. I was talking.

23 Q. Let's just stop. Have you or have you not
24 committed violent crimes in aid of the SNM?

25 A. Yes, sir. From the past, I have.

1 Q. Okay. We're all talking about the past.
2 We're not talking about here in the courtroom.

3 A. Okay. Yes, sir.

4 Q. Have you been prosecuted for those violent
5 crimes that you committed as part of the SNM? "Yes"
6 or "No"?

7 A. Through the Department of Corrections,
8 yes, I've paid my dues.

9 Q. I'm talking about by the U.S. Attorney's
10 Office.

11 A. No, sir.

12 Q. Have they charged you with anything?

13 A. No, sir.

14 Q. Now, you did what they call a Kastigar
15 letter. Do you recall that there is a letter that
16 you signed?

17 A. Yes, sir.

18 Q. Well, let's just back up a little bit.
19 You were subpoenaed to testify here in this court --
20 let me see when that was -- in March of this year.
21 Do you recall? March 16th of this year?

22 A. I think so, yes, sir.

23 Q. And we subpoenaed you, to ask you some
24 questions about statements you said various people
25 made about the 2001 murders. Do you recall that?

1 A. Yes, sir.

2 THE COURT: Mr. Castle, why don't we take
3 about a 15-minute break, so that -- we're going to
4 be taking a late lunch. So why don't we take our
5 break right at the moment. All right.

6 We'll be in recess for about 15 minutes.

7 (The jury left the courtroom.)

8 THE COURT: All right. We'll be in recess
9 for about 15 minutes.

10 (The Court stood in recess.)

11 THE COURT: I think we have all the
12 defendants back in the courtroom, and I think we've
13 got an attorney or more for each one of the
14 defendants. All right.

15 Mr. Castellano, does the Government have
16 anything the Court needs to address?

17 MR. CASTELLANO: No, Your Honor. I think
18 the witness is on the way back. We don't have
19 anything else.

20 THE COURT: How about the defendants?
21 Anything to address, Mr. Castle? Anybody else?

22 MR. CASTLE: No. We just provided the
23 Court with that document.

24 THE COURT: Okay. I'll take a look at
25 that. I did file the Court's fourth draft jury

1 instructions, and of course these are in writing, so
2 they'll be typed. We'll see how far she gets today,
3 and then I'll file the typed version.

4 MS. HARBOUR-VALDEZ: Your Honor, we had
5 asked that the document that was filed, it was an
6 order regarding the search of our clients' cells. I
7 know that was entered before trial, but it was
8 entered on the docket today. We wanted that to be
9 filed restricted.

10 THE COURT: Okay.

11 MS. HARBOUR-VALDEZ: Yeah. She said to
12 get with everyone, and we're all in agreement that
13 it should be filed restricted.

14 THE COURT: Okay. Have you told her that?

15 MS. HARBOUR-VALDEZ: I haven't told her
16 that we all agree. I'll send her an email.

17 THE COURT: When she sticks her head in,
18 I'll try to pull her in and tell her that.

19 MS. HARBOUR-VALDEZ: Thank you.

20 THE COURT: And if I don't, remind me.

21 MS. HARBOUR-VALDEZ: Okay.

22 THE COURT: Anything else from anybody?

23 MS. HARBOUR-VALDEZ: No.

24 MR. COOPER: Thank you.

25 THE COURT: On that order they just had,

1 they've all agreed it should be filed under seal.

2 THE CLERK: All right. I'll do that.

3 THE COURT: All rise.

4 MS. ARMIJO: Your Honor, Mr. Beck is not
5 feeling well.

6 THE COURT: Okay.

7 MS. ARMIJO: So he is gone for the day.

8 THE COURT: Do you want to say anything?

9 MS. ARMIJO: You can.

10 THE COURT: Do you want me to?

11 MS. ARMIJO: Sure.

12 THE COURT: All right.

13 (The jury entered the courtroom.)

14 THE COURT: I understand my jurors are
15 feeling better today as far as headaches and nausea,
16 but we lost Mr. Beck, so he's headed out for the
17 afternoon. So we're keeping everything basically
18 going, but glad the jurors are feeling better.

19 All right. Mr. Lucero, I'll remind you
20 that you're still under oath.

21 THE WITNESS: Yes, sir.

22 THE COURT: And, Mr. Castle, if you wish
23 to continue your cross-examination of Mr. Lucero,
24 you may do so at this time.

25 MR. CASTLE: Yes, Your Honor.

1 THE COURT: Mr. Castle.

2 BY MR. CASTLE:

3 Q. Mr. Lucero, earlier in your testimony you
4 talked about who was in the unit that you shared
5 with Mr. Garza. Do you recall that?

6 A. Yes, sir. Yes.

7 Q. And I want to give you the list of names
8 and see if you can recall that all these people
9 lived with you and Mr. Garza. Okay?

10 Eugene Martinez; correct?

11 A. Yes, sir.

12 Q. Ray Molina; correct?

13 A. Yes, sir.

14 Q. Martin Chacon?

15 A. I think so. I'm not too sure. Yes, sir.

16 Q. Jesse Ibarra?

17 A. Yes, sir.

18 Q. Jesse Ibarra was somebody who was very
19 close to you; correct?

20 A. He's a good friend.

21 Q. When you ran Southern there, he was your
22 right-hand man; correct?

23 A. No, sir.

24 Q. He was an SNM member?

25 A. He was -- he is an SNM member.

1 Q. Felix Reyes was in that block?

2 A. I can't recall who that is, sir.

3 Q. Well, it was only 13 guys you shared space
4 with. Do you recall --

5 A. I didn't know there was that many.

6 Q. And you can't remember Felix Reyes?

7 A. Honestly, I can't remember.

8 Q. Joseph Otero?

9 A. Yes, I remember him.

10 Q. Vito Ortiz.

11 A. I don't remember.

12 Q. Willie Amador?

13 A. Yes, sir.

14 Q. Lorenzo Mora?

15 A. Yes, sir.

16 Q. Jeremiah Baca?

17 A. Yes, sir.

18 Q. And Augustine Saenz?

19 A. Saenz?

20 Q. Yes.

21 A. I don't recall.

22 Q. Being the leader of Southern during that
23 time period, you would have been the leader of all
24 those men as long as they were SNM?

25 A. Yes, sir.

1 Q. If they weren't SNM, then you wouldn't be
2 the leader?

3 A. No, sir.

4 Q. Now, you and Billy Garcia didn't get
5 along, did you?

6 A. We don't even know each other.

7 Q. Well, you testified that Billy doesn't --
8 or not testified. You made a statement to the FBI
9 that Billy didn't even like you?

10 A. He doesn't.

11 Q. Okay. And that was before you accused him
12 of anything here, he didn't like you; is that right?

13 A. No, sir.

14 Q. But it's your testimony that even though
15 it was your responsibility to kill Garza, that Billy
16 Garcia decided to do it for you as a favor so you
17 could go on the streets?

18 A. No, sir --

19 Q. Well --

20 A. -- that's not true.

21 Q. Now, you said that on direct, that you
22 didn't know any of the details about how the murders
23 were going to occur, right?

24 A. Right.

25 Q. You didn't know how many people were going

1 to be involved in it, right?

2 A. No, sir.

3 Q. You didn't know whether both murders were
4 going to happen at the same time on the yard?

5 A. No, sir.

6 Q. Or in the cell blocks, right?

7 A. Right.

8 Q. You didn't know how many crews were going
9 to be used?

10 A. Well, one for each one, you assume. I
11 assume.

12 Q. Well, you didn't indicate that Billy told
13 you what he was going to do, right?

14 A. No, he didn't tell me what he was going to
15 do.

16 Q. Well, you actually made a statement on
17 January 17, 2018, where you said Billy picked out
18 two crews, one from each pod where it happened?

19 A. Yes, sir.

20 Q. But if he didn't tell you, the only reason
21 you would know that one crew from each pod was
22 tasked to do it is because you'd picked out those
23 crews?

24 A. No, sir.

25 Q. I want to talk to you about some times

1 you've been in this courtroom. Okay?

2 A. Okay.

3 Q. Actually, not in this courtroom. About a
4 year, two years ago, May 26, 2016, do you recall
5 being in front of Judge Browning up in Albuquerque?

6 A. Yes, sir.

7 Q. And that was when you got in trouble on
8 your -- because you'd been let out of federal prison
9 but you were still under supervision of the court,
10 correct?

11 A. Yes, sir.

12 Q. And that was when you had some hot UAs and
13 things of that nature?

14 A. Yes, sir.

15 Q. And this was after you started work for
16 the FBI? 2016 was?

17 A. Yes, sir.

18 Q. Is that right?

19 A. Yes, sir.

20 Q. And do you recall who was in court that
21 day from the prosecution team? Was it just a
22 prosecutor from up there, or was it some of the
23 people here in this room?

24 A. No, none of these people. I don't think
25 so.

1 Q. You don't recall them being here?

2 A. I don't recall.

3 Q. Okay. Do you recall telling the judge,
4 Judge Browning, that you had left the gang before
5 you ever went to the feds?

6 A. Yes, sir.

7 Q. And that wasn't true, was it?

8 A. No. But in heart, it was true. But
9 officially, through documents, I didn't drop out
10 till later.

11 Q. You didn't tell Judge Browning -- this was
12 actually you're requesting release to get out so you
13 wouldn't even have to go to a halfway house, right?
14 Do you remember that? You were saying, "I just want
15 to get release. I don't want to go to the halfway
16 house"?

17 A. No, I didn't want to be around active gang
18 members.

19 Q. The point was, you were asking not to do
20 it, right? So you're sitting there in court and
21 telling him that you had left the gang before you
22 ever went to the feds. You said that. Do you want
23 to see the transcript?

24 A. Well, if you said it, I said it.

25 Q. All right.

1 A. I don't care.

2 Q. The reason you made that statement is
3 because you wanted him to believe that you weren't a
4 risk to reoffend?

5 A. I wasn't.

6 Q. And then you told him the following, "If I
7 didn't want to get my life together, I would have
8 stayed in the gang, pick up a RICO like all them
9 other dummies"?

10 A. Yes, sir.

11 Q. So you were concerned about picking up a
12 RICO?

13 A. Yeah. Eventually, yeah. Even in the
14 past.

15 Q. About two months after that -- you
16 actually didn't get to go home free; you were
17 actually told you had to go to the halfway house,
18 right?

19 A. No, sir.

20 Q. Do you remember going to a halfway house
21 called Rio Grande -- well, let's back up. About two
22 months after you made that plea to the judge, do you
23 recall that you got caught using heroin?

24 A. Yes, sir.

25 Q. But what happened was, the probation

1 officer -- they gave you a random urine analysis,
2 right?

3 A. I would have to piss once a week.

4 Q. And on this occasion, you had a positive
5 urine analysis, right?

6 MR. CASTELLANO: Objection to relevance at
7 this point, Your Honor.

8 THE COURT: What's the relevance of that?

9 MR. CASTLE: Well, if I could ask one
10 question, it would show the relevance.

11 THE COURT: Try me.

12 BY MR. CASTLE:

13 Q. Okay. When confronted about your positive
14 UA, you denied that you had consumed any heroin; is
15 that right?

16 A. Yes, sir.

17 Q. And that was being dishonest with a court
18 officer?

19 A. It was pills. It wasn't heroin. It was
20 an Oxycontin or oxycodone. That's how I pissed it
21 hot. But I went to treatment for that.

22 Q. Well, your probation officer actually
23 confronted you with a new urinalysis, and at the
24 point in time you admitted that you had been
25 dishonest with the officer on the previous occasion.

1 Do you recall that?

2 A. Yes, sir.

3 Q. And that happened over and over again
4 several times, right, where you'd get caught, you'd
5 deny it, and then they'd have the results, and then
6 you finally admitted, right?

7 A. Yes, sir.

8 Q. In fact, at times you'd report to
9 probation, you'd still be under the influence of
10 heroin or cocaine, right?

11 A. One time, sir. I was dirty that morning.

12 Q. Who was your source?

13 A. I don't see the relevance.

14 MR. CASTELLANO: Objection; relevance.

15 THE COURT: Sustained.

16 Q. Well, you're indicating here you're
17 cooperating with the FBI concerning violations of
18 the law that you know about; correct?

19 A. You're not the FBI, sir.

20 Q. Okay. Well --

21 A. If they would ask me, it would be a
22 different story. But you're asking me, sir.

23 Q. Do you recall that on one of these
24 post-release supervision revocations, that
25 Ms. Armijo and Mr. Castellano made -- entered their

1 appearance on your behalf? Or not on your behalf,
2 but for the Government? Do you remember that?

3 A. I don't recall.

4 Q. Do you recall that you were looking at 8
5 to 14 months of imprisonment on that violation of
6 supervised release? Do you recall that at all?

7 A. I know I was facing some. Not a lot, but
8 I was facing some.

9 Q. Well, do you recall on March 13, 2017,
10 Mr. Castellano and Agent Acee attending your
11 sentencing on that revocation? Do you recall that?

12 A. I don't recall.

13 Q. Do you recall that despite the fact that
14 you've been convicted of -- whatever -- six or seven
15 felonies, and you had hot UAs time and time again,
16 they recommended that you be released back on
17 supervision? Do you recall that?

18 A. On house arrest.

19 Q. Well, not to go to prison?

20 A. Not to go to prison.

21 Q. Now, you were subpoenaed to testify here
22 in March of 2018. Do you recall that?

23 A. Yes.

24 Q. That was what we were talking right before
25 the break, that you were going to be asked questions

1 about, you know, what people may have said and
2 details about the 2001 murders, right?

3 A. Yes, sir.

4 Q. And when you got up on the stand, in
5 response to my questions under oath, you said you
6 were refusing to answer because your answers might
7 tend to incriminate you. Do you recall that?

8 A. Yes, sir.

9 Q. And I asked you if you knew certain names
10 of certain people that may have committed the
11 murders, and you said, "I decline to answer based on
12 the constitutional right not to be a witness against
13 myself"? Right?

14 A. Yes, sir.

15 Q. Now, why would you think that, when I was
16 asking you about what one of the participants said
17 about the murders, why did you think that that would
18 incriminate you, if you weren't involved?

19 A. I don't know.

20 Q. You don't know?

21 A. No.

22 Q. Okay. On April 5th, you actually ended up
23 testifying, right? And you answered -- well, you
24 came here again?

25 A. Yes.

1 Q. Because when you refused to answer, you
2 got to go home immediately, right? Do you remember
3 that?

4 A. Yes.

5 Q. And then you and your lawyer worked out an
6 agreement with the Government. Do you recall that?

7 A. An agreement?

8 Q. A Kastigar letter?

9 A. Yes.

10 Q. I want to show you that letter. And what
11 this allows you to do was -- well, what it said is,
12 if you come to court and you testify, that they
13 can't use those words anymore against you, you know,
14 to establish a crime that you might admit to, right?

15 A. Yes, sir.

16 Q. So that gave you some protection, right?

17 A. I guess.

18 Q. And it made it so you couldn't actually
19 refuse to answer questions anymore; you have to
20 answer in the microphone; you couldn't refuse to
21 answer questions anymore?

22 A. Yes.

23 Q. But even after getting that letter, you
24 came here to testify on April 5, 2018, and I asked
25 you if you knew the murders were going to happen

1 before they actually happened, and you refused to
2 answer the question. Then, again, you said, "I'm
3 going to refuse to answer that question."

4 Do you remember that?

5 A. I think so.

6 Q. But then the judge required you to answer
7 it anyway?

8 A. Yes, sir.

9 Q. And at that point, you admitted that you
10 were watching the newspapers and saw that he'd been
11 murdered?

12 A. Yes, sir.

13 Q. Now, one of the things about your letter
14 here is that it doesn't give you immunity from being
15 prosecuted; it just says you get immunity from your
16 words being used?

17 A. Yes, sir.

18 Q. But despite that, it says that they can
19 use your words. There is a specific provision here
20 that they can use to develop other evidence against
21 you. Do you recall that?

22 A. Yes, sir.

23 Q. So if you were to admit being involved
24 with Mr. Molina and Mr. Mora, even though they
25 couldn't use that admission, they could go out and

1 develop other evidence, right?

2 A. Yes, sir.

3 MR. CASTLE: Now, Your Honor, at this time
4 I'd like the Court to take judicial notice, and
5 pursuant to an admission by a party opponent, that
6 on March 12, 2018, the Government -- namely, Mr.
7 Castellano -- stated in open court that Leroy Lucero
8 was a conspirator in the murders of Rolando Garza
9 and Frank Castillo.

10 It's referenced on March 12, 2018, at
11 pages 94 and 97.

12 THE COURT: Any objection to that, Mr.
13 Castellano?

14 MR. CASTELLANO: Yes, Your Honor. I'd ask
15 the Court to refer to its ruling on those issues.

16 THE COURT: Y'all have to approach and
17 refresh my memory on that.

18 (The following proceedings were held at
19 the bench.)

20 THE COURT: What ruling are you thinking
21 of, Mr. Castellano?

22 MR. CASTELLANO: So this probably would
23 have been for the Jencks hearing.

24 THE COURT: I think it's for the James
25 hearings. I don't have that yellow sheet in front

1 of me, but it was the basis for making the factual
2 findings as to who would be the James -- who would
3 be in the conspiracy. So I think I did make that
4 finding.

5 MR. CASTELLANO: What I'm looking at now
6 is the table. I haven't had a chance to look at it.

7 MR. CASTLE: I can give the references.

8 THE COURT: Why don't you turn your
9 computer around so that Mr. Castellano can see what
10 was said.

11 MR. CASTLE: Mr. Castellano says, "There
12 are two people, there's Leonard Lujan and there's
13 Leroy Lucero, who are not listed.

14 The Court says, "Sorry. Yes. It was
15 Leroy Lucero, the co-conspirator on this count."

16 And then the Court's asking if we should
17 list him, let's list him for now.

18 Then page 97, "All the names that you gave
19 me, Munoz, Leroy Lucero, Jaramillo, and Munoz, are
20 those intended to be part of the conspiracy to
21 murder Freddie Castillo and Rolando Garza?"

22 And he responded, "I know that Munoz's
23 statements are generally grouped together, generally
24 they should be grouped together. I'll have to
25 double-check that."

1 "THE COURT: Should I be looking at Leroy
2 Lucero's -- the Government thinks is part of the
3 Garcia conspiracy" -- with the Garza -- "Castillo
4 and Garza, Mr. Castillo."

5 THE COURT: Well, if we don't have
6 agreement on judicial notice, you're certainly
7 welcome to put that up on the screen and then offer
8 it as evidence, and you can mark that page. We
9 don't need everything in there, but you can
10 highlight the relevant portion.

11 MR. CASTELLANO: I think it's confusing
12 from the transcript, and I think he's testified
13 consistently with that, in that he said when he was
14 leaving, he asked Billy Garcia if he wanted him to
15 do anything, and he said he would be willing to
16 follow orders if instructed. Billy Garcia told him
17 to leave the facility and go home.

18 And at that point, he basically withdrew
19 from the conspiracy. So I think at that point, I
20 think that's correct, and he's testified
21 consistently with that.

22 THE COURT: Well, even if he has, I think
23 it's proper for you to mark that and play it and
24 indicate it for the jury. Because I'm not sure
25 exactly what the judicial notice would be. Would it

1 be that he is a conspirator? Would it be --

2 MR. CASTELLANO: Right.

3 THE COURT: I think you can probably use
4 Mr. Castellano's words, but I think if I try to take
5 judicial notice, we'll be sitting up here for a long
6 time, trying to figure out what it is. And I think
7 what I'm basically going to take judicial notice is
8 that he said that.

9 MR. CASTLE: Right. I think the Court is
10 right. I think that probably is the wrong way to do
11 it. But what I'd ask to do is, I'll prepare
12 something.

13 THE COURT: Okay.

14 MR. CASTLE: Because otherwise, I think
15 there will be words that the jury will see, and I
16 don't think that will --

17 THE COURT: Yeah, why don't you prepare
18 what you want, show it to Mr. Castellano, and if
19 there's an objection, then I can rule on it.

20 MR. CASTELLANO: If I could get a copy of
21 the transcript, it would be great, so I can make
22 sure.

23 MR. CASTLE: We have it.

24 MR. CASTELLANO: I don't have it handy.
25 Thanks.

1 (The following proceedings were held in
2 open court.)

3 THE COURT: All right. Mr. Castle.

4 BY MR. CASTLE:

5 Q. Mr. Lucero, you're not the right witness
6 to ask those questions because you weren't here that
7 day, so I'll move on.

8 A. Thank you.

9 Q. That Kastigar letter, paragraph 2
10 specifically states -- I think I left it up there
11 for you.

12 A. Can I grab it?

13 Q. Yes, I think that's it. Paragraph 2. And
14 this is your agreement with them, "The Government
15 may make derivative use and may pursue any
16 investigative leads suggested by and statements made
17 by or other information provided by you."

18 Do you recall that?

19 A. Yes, sir.

20 Q. The last question I have for you, Mr.
21 Lucero, is: You talked about a guy by the name of
22 Smurf that you also know, that you brought into the
23 gang?

24 A. Sure.

25 Q. His name is Daniel Archuleta?

1 A. Yes, sir.

2 Q. Daniel Archuleta ended up being the head
3 of, the shot-caller, and the keyholder to Southern
4 New Mexico Correctional Facility, right?

5 A. I wasn't around, so I don't know.
6 Honestly, I don't know. Could have been. Could
7 have been. He was getting up there in rank.

8 Q. You've been in contact with him over the
9 years, right?

10 A. I haven't, sir. Search the file. It's
11 not me.

12 Q. Not you?

13 A. Not me, sir. I know him good.

14 MR. CASTLE: I don't have any other
15 questions.

16 THE COURT: Thank you, Mr. Castle.

17 Mr. Solis, do you have cross-examination
18 of Mr. Lucero?

19 CROSS-EXAMINATION

20 BY MR. SOLIS:

21 Q. Mr. Lucero.

22 A. Como estas.

23 Q. So I noticed you were getting agitated
24 there towards the end, right before the break.

25 A. I'm just not feeling good, sir. Sorry

1 about that.

2 Q. Well, you know, the wise Justice once
3 termed cross-examination the greatest engine devised
4 by man for discovery of the truth. You've
5 experienced that today, haven't you?

6 So, I don't want to get into this talking
7 over each other and all that business. There are
8 rules that we have to abide by, and Judge Browning
9 holds us to those rules, lawyers. He'll sustain or
10 overrule objections by either side.

11 Have you seen that happen?

12 A. Yes, sir.

13 Q. Okay. And there are rules for witnesses,
14 too. If there is not a question on the floor, you
15 really shouldn't volunteer anything.

16 A. Yes, sir. I apologize.

17 Q. The question that's posed to you will be
18 answered and then -- guess what? After the
19 cross-examination, Mr. Castellano will get up and
20 fix or adjust the questions so that you can answer
21 it to your liking. But in the meantime, while the
22 question is posed, you need to answer that question.
23 Do you follow me?

24 A. Yes, sir.

25 Q. Do you understand?

1 A. I'm sorry about that.

2 Q. Well, you know, you haven't done it with
3 me yet.

4 A. No.

5 Q. But it's --

6 A. Just to all you guys, sorry.

7 Q. Right. You hear what I'm saying, right?

8 A. Yes.

9 Q. The jury is watching and, you know, we
10 need to make this as seamless as possible, right?

11 A. Sorry about that.

12 Q. All right. So what I want to do is, when
13 I get up here and ask a question, as my fellow
14 counsel do, we have a purpose in mind; that's to
15 transmit information to the jury. Okay? So the
16 question is posed, and you transmit information to
17 the jury at this moment, at this very moment, or
18 we'll save it in our pocket for closing argument.
19 If I'm selected to do that, then I'll do that.

20 So remember that. That's the purpose of
21 this exercise right now. Do you follow me?

22 A. Yes, sir.

23 Q. All right. Let me see. Any other
24 housekeeping that we need to address, Mr. Lucero?

25 Okay. So what I want to do is discuss

1 some concepts with you, American legal
2 jurisprudence, modern jurisprudence concepts having
3 to do with litigation. And I'll get into some
4 questions after we do that. Okay?

5 A. Okay.

6 MR. CASTELLANO: I'm going to object and
7 just ask that we ask questions at this point.

8 THE COURT: It's probably time. I've let
9 you lay a little ground rules for cross, but ask
10 questions now.

11 MR. SOLIS: Thank you, Your Honor.

12 May I approach the easel, Your Honor?

13 THE COURT: You may.

14 MR. SOLIS: With the Court's permission,
15 I'm going to move the easel a little forward.

16 THE WITNESS: May I turn this way, Your
17 Honor?

18 THE COURT: You may. Why don't you pull
19 that microphone over as far as you can so that we
20 can pick up your voice.

21 BY MR. SOLIS:

22 Q. That's the other thing, Mr. Lucero. If
23 I'm away from the microphone, I'll have to raise my
24 voice so the jury can hear me and the counsel at the
25 very corner can hear me. So don't be offended. If

1 you think I'm yelling at you, I'm not. I'm just
2 raising my voice so everyone can hear. Okay?

3 A. Yes, sir. So don't get in my feelings.

4 Q. I beg your pardon?

5 A. Don't get in my feelings.

6 Q. Don't get in your feelings?

7 A. Yeah. Yeah.

8 Q. Well, all right. So what I first want to
9 discuss with you is if you've heard the term "whores
10 of the court"? Have you heard that term?

11 A. Honestly, no.

12 Q. You have not?

13 A. No, sir.

14 Q. That term is alien to you? You've never
15 heard that term?

16 A. No, sir.

17 Q. Is that legible enough? You've never
18 heard the term "whores of the court"?

19 A. No, sir.

20 Q. All right. We'll visit that in a little
21 bit. What about just the term "whore," W-H-O-R-E?
22 Have you heard that term?

23 A. Prostitute. Right.

24 Q. Okay.

25 A. That term.

1 Q. All right. And how do you define that?
2 What does it connote to you when we hear that term?

3 A. I don't know. My mind goes everywhere. I
4 don't know.

5 Q. All right. Maybe someone that provides
6 pleasure or some benefit. Would you agree with
7 that?

8 A. Yeah. Yes, sir.

9 Q. Okay. Is that true?

10 A. Yes, sir.

11 Q. All right. And for some compensation,
12 money?

13 A. Yes, sir.

14 Q. Can you see that? Is it legible? Jewelry
15 sometimes, right? Would you agree? Do you see
16 that?

17 A. Yes, sir.

18 Q. And, I don't know, maybe property
19 sometimes, right? A little house there, right?

20 A. Yes, sir.

21 Q. Would you agree? I mean, that's something
22 you can trade for, right?

23 A. Yeah, I think. Yeah. I don't know.

24 Q. Usually money?

25 A. Money. I don't know jewelry or property,

1 but money, yeah.

2 Q. But money for sure?

3 A. Yes, sir.

4 Q. And what about time? Do you think time is
5 something that's valuable?

6 A. That's the most valuable thing in the
7 world.

8 Q. Exactly. Why is that?

9 A. Because we don't know how much we have
10 left of it.

11 Q. Maybe because we can't recover it?

12 A. You can't make up what you lost, and
13 you're not promised it.

14 Q. Okay. So money and time are the most
15 likely of benefits provided to a whore in this
16 situation, do you think?

17 A. Yes, sir.

18 Q. All right. So, as I mentioned, did you
19 know that in the American legal jurisprudence, in
20 modern legal jurisprudence, as far as litigation is
21 concerned, there are plaintiffs and defendants? Do
22 you know that?

23 A. Yes, sir.

24 Q. All right. And in the civil arena -- you
25 know this is a criminal arena? We're not in the

1 civil arena right now. Do you understand that?

2 A. Yes, sir.

3 Q. So in a civil arena, say John Doe --

4 MR. CASTELLANO: I'm going to object as to
5 relevance.

6 MR. SOLIS: I'm getting there, Your Honor.

7 THE COURT: Let's move it pretty quickly
8 to the point.

9 MR. SOLIS: All right.

10 BY MR. SOLIS:

11 Q. Is styled as a plaintiff versus, let's
12 say, ABC Company, styled as a defendant. So far, so
13 good. Do you understand that? And then a civil
14 action like that, these plaintiffs or defendants
15 will have witnesses come in that are compensated
16 with money.

17 Do you understand that?

18 A. Yes, sir.

19 Q. Have you heard of that?

20 A. Yes, sir.

21 Q. So witnesses will come in and be
22 compensated with money. In most cases, those
23 witnesses will be expert witnesses, doctors,
24 chemists, that sort of situation.

25 A. Yes, sir.

1 Q. Almost never -- in fact, never -- will you
2 have a regular John Doe off the street, a street
3 person witness compensated by money. Do you
4 understand me so far?

5 A. Yes, sir.

6 Q. All right. Did you know, Mr. Lucero, that
7 in this case, the style of the case is the United
8 States of America versus defendants, various
9 defendants' names? Did you know that?

10 A. Yes, sir.

11 Q. Did you know also that the United States
12 is styled as the plaintiff in this case? Did you
13 know that?

14 A. No, sir.

15 Q. The pleadings, the indictment, the various
16 motions filed are styled "USA," plaintiff, and the
17 defendants are obviously the defendants. Do you see
18 that?

19 A. Yes, sir.

20 Q. Did you know that?

21 A. I know that.

22 Q. All right. What we were talking about a
23 little while ago in the civil arena, the analysis
24 is, from the legal community, is when that ABC
25 Company brings in, or John Doe, the plaintiff,

1 brings in their expert that they paid for, to
2 testify in a way to a jury that they like, you know
3 what they call them?

4 MR. CASTELLANO: I'm going to object as to
5 relevance again, Your Honor.

6 THE COURT: Sustained. I don't think we
7 need to get into civil law. Sustained.

8 MR. SOLIS: Your Honor, I will address it,
9 then, in the context of criminal law.

10 MR. CASTELLANO: I'm just going to ask
11 that we have questions, Your Honor.

12 THE COURT: Yeah, let's ask questions that
13 go to the issues in the case.

14 MR. SOLIS: All right. Your Honor,
15 pursuant to the nonhearsay 801 rule, there is an
16 admission of a party opponent I'm moving to admit.
17 This is a register or a log of payments provided to
18 witnesses by the Department of Justice. It's their
19 document, it's an admission of a party opponent, and
20 I'm moving to admit that document, Your Honor.

21 THE COURT: Any objection to that, Mr.
22 Castellano?

23 MR. CASTELLANO: Yes, Your Honor. May we
24 approach?

25 THE COURT: You may.

1 (The following proceedings were held at
2 the bench.)

3 MR. SOLIS: This is the document, Your
4 Honor.

5 THE COURT: Let me hear what
6 Mr. Castellano's position is.

7 MR. CASTELLANO: May I see the document?

8 MR. SOLIS: Yes. While he looks at it,
9 may I address the Court?

10 THE COURT: I think I know, probably, your
11 position. I just need to know what the Government's
12 position is.

13 MR. SOLIS: We've already talked about --
14 he testified about the \$90,000 paid.

15 MR. CASTELLANO: They haven't all been
16 talked about. Robert Lovato isn't in here. I have
17 no objection to him asking questions about the
18 benefits he's received. He's already answered that
19 question.

20 MR. SOLIS: That's true.

21 MR. CASTELLANO: I think the other problem
22 now is, Mr. Solis has used the term "whores of the
23 Court," so obviously the implication will be that
24 the witnesses in this case are the whores of the
25 Court, working for money. So I would object on

1 hearsay grounds and also by the implication he's
2 already made.

3 MR. SOLIS: My response to this, Your
4 Honor, this entire case is built on suspect
5 testimony.

6 THE COURT: I'll let you make your case.
7 Unless there's something particular about this
8 document -- I'd be glad to look at it, but I think
9 it's just going to be a letter.

10 MR. SOLIS: Acee has testified that
11 \$90,000 were billed out to the --

12 THE COURT: Unless there's something in
13 particular about it, I'll let him mark it and
14 introduce it as an exhibit. So I'll admit Exhibit
15 EI.

16 MR. SOLIS: Did I hear you admit it, Your
17 Honor?

18 THE COURT: It's admitted.

19 MR. SOLIS: Thank you.

20 (Defense Exhibit EI admitted.)

21 (The following proceedings were held in
22 open court.)

23 THE COURT: All right. Mr. Solis.

24 BY MR. SOLIS:

25 Q. I know you've testified a little while

1 ago, Mr. Lucero, in response to Mr. Castle's
2 questions regarding payment, and I know you answered
3 that it was 7 -- tell us again, what was it,
4 Mr. Lucero?

5 A. I don't recall.

6 Q. Well, the last page, document number 7516,
7 Defense Exhibit EI, Leroy Lucero, \$7,350, plus
8 expenses for the phone, \$7,872.90. Does that sound
9 right?

10 A. Yes, sir.

11 Q. Now, have you had any supplements since
12 then?

13 A. Since when?

14 Q. Since April the 10th, 2018, any
15 supplements since?

16 A. No, sir.

17 Q. No?

18 A. No, sir.

19 Q. All right. I know you testified to that,
20 but a lot of us are visual, and to see it, touch it,
21 squeeze it is different from just listening to it;
22 would you agree?

23 A. Yes, sir.

24 Q. We want to talk about also -- I heard you
25 say to Mr. Castle, or in answer to his question

1 about the BOP, and how you don't have access to your
2 file from the BOP. But we do have access to some of
3 it. Did you understand that?

4 A. Yes, sir.

5 Q. I guess from the questions posed to you by
6 Mr. Castle, you understood that we have access to
7 some of those documents. Do you understand that?

8 A. Yes, sir.

9 Q. So I noticed that your eval, psychological
10 eval, was very similar -- in fact, the diagnosis was
11 just like Mr. Martinez and Leonard Lujan. Did you
12 know that?

13 A. No, sir. I don't know what their --

14 MR. CASTELLANO: I'll object, Your Honor.

15 THE COURT: Hold on.

16 MR. CASTELLANO: He doesn't know what
17 other witnesses have said or what other evidence is
18 in this case.

19 MR. SOLIS: Well, he can answer that, and
20 he's answered that he doesn't know.

21 THE COURT: I'll let the answer stand.

22 Overruled.

23 MR. SOLIS: Thank you.

24 BY MR. SOLIS:

25 Q. Did you know your diagnosis is antisocial

1 personality disorder? Did you know that?

2 A. I -- I -- um --

3 Q. The answer is "Yes" or "No," sir. We had
4 the discussion about the ground rules. Did you
5 understand that was your diagnosis?

6 A. Yes, sir.

7 Q. And so you understand the criteria, the
8 diagnostic behaviors they look for? You understand
9 that, too, don't you?

10 A. Yes, sir.

11 Q. And what is this, "incessant and deception
12 and lying and manipulation"? Isn't that one of the
13 criteria of the DSM-IV diagnosis?

14 A. I don't know what that's about.

15 Q. You don't know that?

16 A. I don't know that.

17 Q. All right. Well, yesterday you testified
18 that -- well, who is Critter anyway?

19 A. Yesterday?

20 Q. What is today? Yeah, yesterday.

21 A. I wasn't here yesterday.

22 Q. You didn't testify yesterday.

23 Who is Critter, by the way? Who is
24 Critter?

25 A. Your client.

1 Q. Who is he?

2 A. Chris Chavez. Chris Critter. There's a
3 few of them.

4 Q. Okay. But your first response was Chris
5 Chavez, right?

6 A. Yes, sir.

7 Q. You mentioned that Chris came up to you
8 and talked to you about the SNM murders?

9 A. Yes, sir.

10 Q. Right? And that he talked to you at
11 North. Do you remember that?

12 A. At the North?

13 Q. That's what you said?

14 A. Yes, sir.

15 Q. And did he talk to you -- tell us exactly
16 when he talked to you, when you said he talked to
17 you at Southern. When was it?

18 A. Southern?

19 Q. Yeah. Remember?

20 A. He didn't talk to me at Southern.

21 Q. The North?

22 A. The North.

23 Q. How many times?

24 A. Well, we lived in the same unit. We'd see
25 each other in the yard all the time, every day.

1 Well, when we went out.

2 Q. Okay.

3 A. So specific days, I don't remember. I
4 don't recall.

5 Q. You don't recall?

6 A. I don't recall.

7 Q. About specific things he talked to you
8 about?

9 A. Well, I know about that. It's the dates,
10 sir.

11 Q. Okay. Now, you testified, as Mr. Castle
12 explored with you, on April the 5th, sitting in that
13 very chair. Do you remember that?

14 A. Yes, sir.

15 Q. And didn't you say something completely
16 contradictory to what you said today?

17 A. What did I say?

18 Q. You said you didn't talk about anything
19 with Mr. Chavez.

20 A. I didn't answer the question.

21 Q. You didn't?

22 A. I didn't answer that question.

23 Q. You didn't say -- well, first off, were
24 you under oath?

25 A. Yes, sir.

1 Q. You were under oath. His Honor, Judge
2 Browning, instructed the clerk to put you under
3 oath, right?

4 A. Yes, sir.

5 Q. It wasn't just some interview with Agent
6 Acee or Roundy or anyone else. You were under oath,
7 sitting in that chair, right?

8 A. Yes, sir.

9 MR. SOLIS: May I approach?

10 THE COURT: You may.

11 Q. April the 5th, 2018, Mr. Lucero?

12 A. Yes, sir.

13 Q. Mr. Castle asked you, "And tell us a
14 little bit about the discussion you had with
15 Mr. Chavez."

16 What was your response?

17 A. "Just talk."

18 Q. Louder.

19 A. That's what it says, "Just talk."

20 Q. Okay.

21 A. My lawyer advised me to -- my lawyer that
22 day advised me to --

23 Q. Your lawyer wasn't testifying. It was you
24 in that chair, wasn't it?

25 A. Yes, sir.

1 Q. All right.

2 A. My legal -- my lawyer advised me not to
3 say that --

4 Q. Mr. Castellano will explore that with you
5 in a little bit, but for the moment you're going to
6 answer my questions like we agreed, right?

7 A. Yes, sir.

8 Q. And it was not your lawyer testifying; it
9 was you?

10 A. It was me.

11 Q. You raised your right hand and swore you
12 would tell the truth?

13 A. Yes, sir.

14 Q. Did Mr. Castle ask you: "Okay, and what
15 did he say? What did he say? Give us some details,
16 if you could"?

17 What was your response?

18 A. I don't remember, but --

19 Q. It was exactly that: "I don't remember.
20 I don't remember."

21 A. Yeah.

22 Q. Do you remember that?

23 A. Yes, sir.

24 Q. And Mr. Castle persisted: "Well, who
25 started the conversation? Do you know who started

1 the conversation?"

2 What did you respond?

3 A. "No."

4 Q. "No."

5 "Do you know why you guys had this
6 conversation?"

7 And your response was, "Hum-um"?

8 Is that right?

9 A. "Hum-um." Yes, sir.

10 Q. Just like you did just now. Do it again.

11 A. Hum-um.

12 Q. "Is that a No?" he asked you. And your
13 response was, "That's a No."

14 A. That's a No.

15 Q. Okay. So Mr. Castle asked you, "Well, did
16 Mr. Chavez -- was it about the 2000 murders even?"

17 And what did you respond?

18 A. "No."

19 Q. "No."

20 So Mr. Castle asked you, "Did Mr. Chavez"
21 -- and he paused -- "was it about the 2000 murders
22 even?"

23 And your response was, again?

24 A. "Hum-um." No.

25 Q. Okay. "So you never had a conversation

1 with Christopher Chavez about the 2000 murders at
2 all?"

3 And your response was?

4 A. "I don't think so."

5 Q. All right. You were under oath like you
6 are today, right?

7 A. Yes.

8 Q. On April the 5th of 2018.

9 Now, in the following moments on that
10 April 5, 2018, date, Mr. Beck got up and asked you
11 questions. Do you remember that?

12 A. Yes, sir.

13 Q. And you came around and said, "Oh, yes,
14 yes, we did have conversations."

15 Do you remember that?

16 A. Yes, sir.

17 Q. And then you proceeded to testify much
18 like you did a little while ago. Do you remember
19 that?

20 A. Yes, sir.

21 Q. Was that because you remembered -- 7516
22 again. It's exhibit, the one that was admitted
23 moments ago, EI. And the reason you testified that
24 way, sir, is because you remembered this: You
25 remembered what you were supposed to do. You

1 remembered what you were supposed to say for that
2 sum of money?

3 A. No, sir.

4 Q. Right?

5 A. No, sir.

6 Q. Your first inclination was to tell the
7 truth because the oath means something, even to you?

8 A. Yes, sir.

9 Q. So Mr. Castle asked you, "Did you have
10 that discussion ever about the murders?" And you
11 said, "No," because that was the truth, right?

12 A. Yes.

13 Q. But then you remembered about the
14 \$7,872.90. When the Government got up to ask you
15 questions, you said, "Oh, I forgot what I was
16 supposed to say." And what's what you said?

17 A. That's not true, sir.

18 Q. That's not true?

19 A. No, sir.

20 MR. SOLIS: All right. Pass the witness.

21 THE COURT: Thank you, Mr. Solis.

22 Anyone else have cross-examination of
23 Mr. Lucero?

24 Mr. Burke, do you want to go next?

25 MR. BURKE: I will, Your Honor. Thank

1 you.

2 THE COURT: Mr. Burke.

3 CROSS-EXAMINATION

4 BY MR. BURKE:

5 Q. Mr. Lucero, I just have a few questions
6 about that little snippet of information you
7 conveyed about Edward Troup. All right?

8 A. Yes, sir.

9 Q. You said that he got into a fight of some
10 sort with a Los Carnales member. Do you recall
11 that?

12 A. Yes, sir.

13 Q. And instead of him delivering a beat-down,
14 he was the recipient of a beat-down, correct?

15 A. Well, they were fighting, sir.

16 Q. And you didn't say the specific date, but
17 does 1996 or 1997 sound right to you?

18 A. No, sir.

19 Q. When do you think it was?

20 A. I'm not -- I don't remember. To be honest
21 with you, I don't remember that time, you know what
22 I mean? I know I remember the incident and I know
23 what was said, but the dates and times I don't
24 remember, sir.

25 Q. All right. In the '90s? Would that be

1 fair?

2 A. Late '90s.

3 Q. All right. And --

4 A. Maybe even after that.

5 Q. And that put Mr. Troup in bad standing.

6 Is that a fair statement?

7 A. That was part of it, yeah.

8 Q. Because he didn't represent the S very
9 well; is that right?

10 A. For that.

11 Q. And he wasn't an esteemed or he was never
12 a shot-caller or a keyholder or anything, was he?

13 A. No, sir.

14 Q. No. And did he even have a green light on
15 him for not representing the S well?

16 A. No, sir.

17 Q. No? Just in bad standing?

18 A. He had to make up his F-up.

19 Q. All right. Fair enough. And then you got
20 out of the prison, out of Southern, right?

21 A. Yes, sir.

22 Q. And you never did ever again -- you were
23 never in prison with Mr. Troup after that, were you?
24 You were never in the same pod or --

25 A. Same pods, no, sir.

1 Q. -- same facility?

2 A. We ran into each other going back and
3 forth to yard or in medical or --

4 Q. Maybe like at Jurassic Park?

5 A. Exactly.

6 Q. That seems to have happened a lot?

7 A. Jurassic Park.

8 Q. And you didn't stay in touch with him the
9 way you stayed in touch with Brian Fuzz Rascon, the
10 fellow who, with JJ DeLuna, killed Ron Baca? That
11 wasn't your relationship, correct?

12 A. No, sir.

13 Q. All right. And you never had a
14 substantive conversation with Edward about the
15 homicide, correct?

16 A. No, sir.

17 Q. All right. Now, something you said, and I
18 want to pursue it a little bit. You made a
19 suggestion that it seemed as though Edward had
20 enhanced his reputation or cleaned up this mess when
21 you got back in prison, right? Do you remember
22 that?

23 A. Yes, sir.

24 Q. Something like that. I want to ask you
25 about the realities of prison life just a little

1 bit. Now, prison is pretty odd in the sense that
2 there are some harsh realities? You wake up, and
3 you look at the wall, and you go to sleep, and those
4 are the hard realities, right?

5 A. Yes, sir.

6 Q. And then there is sort of a facade that
7 goes on, and you talked about it a bit, especially
8 in Lewisburg, where you're putting on an act, and
9 there is -- it's not entirely real, is it?

10 A. No.

11 Q. And us people in the free world, we might
12 not understand that, because prison really is
13 different, right?

14 A. Yes, sir.

15 Q. All right. Now, you, having never spent
16 another day with Edward, you would not really know
17 what his reality was like, would you?

18 A. No, sir.

19 Q. All right. And you wouldn't know what his
20 reputation was or what he was -- how he was held in
21 esteem or not held in esteem? You just have no way
22 of knowing that, would you?

23 A. No, sir. No, sir.

24 Q. And the truth is, you know, you guys,
25 you've got this real world and you've got this other

1 thing, and you called it Inmate.com. And Inmate.com
2 is not entirely reliable, is it?

3 A. No, sir. Honestly, no.

4 Q. Sometimes it's a lot of chatter?

5 A. (Witness indicated.)

6 Q. Thank you. A lot of chatter. And the
7 only way you can know exactly what happened or is
8 happening is if you see it right at the moment it
9 happened, true?

10 A. The truth, anyway.

11 MR. BURKE: That's all I've got.

12 THE COURT: Thank you, Mr. Burke.

13 Anyone else have cross-examination of
14 Mr. Lucero? Mr. Sindel? Mr. Blackburn?

15 Mr. Blackburn, go ahead.

16 CROSS-EXAMINATION

17 BY MR. BLACKBURN:

18 Q. Mr. Lucero, you indicated, when Mr. Castle
19 was asking you questions, the number of times, and
20 you went over a number of times that you spoke with
21 either the Government agents and/or the U.S.
22 Attorney's Office. Do you remember that
23 questioning?

24 A. Yes, sir.

25 Q. All right. And you're aware, obviously,

1 that you have given several statements. But some of
2 the statements I want to talk to you about is the
3 statement you gave February 9th of 2011, when you
4 were in Lewisburg, Pennsylvania. Do you remember
5 that time when Mr. Roundy came up to talk to you?

6 A. I remember a couple of times he went up
7 there, sir.

8 Q. All right. And also, you remember a
9 statement that you gave or a 302 interview that you
10 gave with the Government on January 17th of this
11 year as they were preparing for trial? You remember
12 that one, do you not?

13 A. No, sir, I don't.

14 Q. Well, you gave so many statements; if we
15 need to go over them, we'll look at them.
16 Yesterday, Mr. Castellano asked you if there was a
17 time that you were incarcerated with Arturo Garcia
18 at the North facility. Do you remember those
19 questions?

20 A. Yes, sir.

21 Q. Okay. And he asked you if you had ever
22 done time with him and if you could recall a
23 conversation that you had with him, when both of you
24 guys went out to -- I believe you ended up in the
25 yard. Do you remember that?

1 A. Yes, sir.

2 Q. All right. And he asked you about telling
3 him about Freddie Sanchez, and you indicated that
4 you were aware, that you knew that there was a green
5 light on, already, for Freddie Sanchez due to a
6 violation, right?

7 A. Yes, sir.

8 Q. And you indicated -- he asked what
9 happened as a result of that violation or what
10 happened afterwards, and you said that: We already
11 knew what we had to do or what had to go on, because
12 all you have to do is say there's a green light on
13 him, and we know what's going on at that point in
14 time.

15 That's basically what you indicated,
16 right?

17 A. Yes, sir.

18 Q. All right. Now, at the time that you were
19 having this conversation with Mr. Garcia, this was
20 about the year before anything happened to Mr.
21 Sanchez in Southern New Mexico, right?

22 A. I don't know how long it was, but --

23 Q. Well, so you were -- so this particular
24 conversation happened at the North facility, that
25 you were having, right?

1 A. Yes, sir.

2 Q. Because at the time, if Arturo Garcia was
3 not in the -- you were with him in the North
4 facility, right?

5 A. Yes, sir.

6 Q. And then later you go to the South
7 facility?

8 A. I go to the South.

9 Q. You go to the South, and you're there at
10 the South. And you're also with Mr. Sanchez there
11 the South, are you not?

12 A. Yes, sir.

13 Q. All right. And then eventually you go to
14 Southern New Mexico, right?

15 A. No. I go home.

16 Q. You go home?

17 A. I get paroled.

18 Q. Right. But there was a time when you were
19 talking to Mr. Sanchez, when you were with him in
20 the Southern facility, because he knew he already
21 had a hit on him, did he not?

22 A. He knows what he did. I assume he would.

23 Q. But he told you, did he not, that he was
24 aware that he had a hit on him and that he was going
25 to go out the same way that he came in, right?

1 A. No, I don't remember that.

2 Q. You don't remember that?

3 A. I don't remember. That does sound like
4 him. He would say something like that.

5 MR. BLACKBURN: May I approach, Your
6 Honor?

7 THE COURT: You may.

8 Q. 649.

9 A. That rings a bell.

10 Q. That rings a bell, that when you talked to
11 Mr. Sanchez out in the yard, that he knew that there
12 was a hit on him, and he said that he would
13 basically go out the same way he came in, right?

14 A. Yes.

15 Q. Well, you said that sounds like something
16 he would say?

17 A. Yeah.

18 Q. You also noted thereafter, approximately
19 one year later, that he was murdered in the Southern
20 facility, right?

21 A. Yes, sir.

22 Q. And the reason why you knew at the time
23 that there was a hit on him and you were talking to
24 Mr. Sanchez about a year before this happened, you
25 knew that there was a hit on him because you knew

1 that Albert Cardona had provided a report that
2 indicated that Mr. Sanchez had been involved in a
3 burglary and had violated the rules by telling on
4 somebody; isn't that correct?

5 A. Yes, sir.

6 Q. And you knew at the time that Albert
7 Cardona was also somebody who lived in Roswell and
8 was part of that little gang or clique that involved
9 Mr. Sanchez and Mr. Cardona and a guy named BB,
10 right?

11 A. Yes, sir.

12 Q. Okay. So all those guys were part of the
13 same group. So you knew that it was Albert Cardona
14 who had provided the paper, because he was involved
15 in that situation in Roswell; isn't that true?

16 A. Yes, sir.

17 Q. All right. And you also knew that those
18 reports had been given to Styx, to Gerald Archuleta,
19 did you not?

20 A. Yes, sir.

21 Q. And you also knew at that time, after
22 Cardona gave those documents to Styx, that Styx was
23 the one who put the green light on Mr. Freddie
24 Sanchez; isn't that true?

25 A. Well, the green light comes automatically,

1 sir, because he violated one of the rules.

2 Q. And Cardona was the one that supplied the
3 paperwork, right?

4 A. Yes, sir.

5 Q. Which led to the green light?

6 A. He was.

7 Q. But you also know, isn't it true,
8 Mr. Lucero, that you know that at that time, it was
9 Gerald Archuleta who authorized the green light on
10 him; isn't that correct?

11 A. Yes, sir.

12 Q. And you told that to Mr. Roundy when you
13 talked to him in February of 2011 at the Lewisburg
14 facility; isn't that correct?

15 A. Yes, sir.

16 MR. BLACKBURN: Thank you.

17 THE COURT: Thank you, Mr. Blackburn.

18 Mr. Sindel, do you have cross-examination
19 of Mr. Lucero?

20 MR. SINDEL: Yes, Your Honor.

21 THE COURT: Mr. Sindel.

22 CROSS-EXAMINATION

23 BY MR. SINDEL::

24 Q. How are you?

25 A. Good.

1 Q. How's your tooth?

2 A. It's gone.

3 Q. You certainly found that if you take candy
4 from the Government, it doesn't always work out so
5 well, does it?

6 A. Yeah. That's true.

7 Q. My name is Richard Sindel. I represent
8 Mr. Gallegos, Joe Gallegos. Okay?

9 A. Yes, sir.

10 Q. There was information that you were asked
11 about your time within the Bureau of Prisons. I'd
12 like to get a little bit of definitions here. There
13 was discussion about the various prison platforms
14 that are available within the Bureau of Prisons,
15 starting with camps and going all the way up to ADX,
16 right?

17 A. Yes, sir.

18 Q. And right underneath ADX is United States
19 Penitentiaries, which are called USPs?

20 A. Yes, sir.

21 Q. And you had referred to the SIS, and that
22 is the organization within the Bureau of Prisons
23 that investigates gang activity and other illegal
24 activity, correct?

25 A. Yes, sir.

1 Q. They're kind of like the STG of the STIU
2 in the New Mexico Department of Corrections?

3 A. They are, sir.

4 Q. And they're the ones that compile
5 information or data concerning activities involving
6 the various inmates within the institutions?

7 A. Yes, sir.

8 Q. Now, was there a situation where you were
9 involved in a physical altercation or fight with
10 members of the Mexican Mafia?

11 A. Honestly, sir, yes. There was no
12 physical -- no physical -- nothing got physical.
13 Words were exchanged.

14 Q. Was it true that you were stabbed and
15 beaten by members of the Eme?

16 A. No, sir. You could check my medical
17 records, sir. I never got stabbed.

18 Q. And you said that there were words that
19 were spoken; is that right?

20 A. Yes, sir.

21 Q. Was that over some drug debt?

22 A. No, sir. It was over politics, about New
23 Mexico Syndicate riding under the Mexican Mafia.

24 Q. Did you feel that as a result of your
25 dispute with the Mexican Mafia, that your life could

1 be in danger if you ever went back to the Bureau of
2 Prisons?

3 A. Yes, sir. That's what -- especially
4 talking to that individual that I had words with,
5 he's pretty high up there. So, yeah, I figured that
6 eventually I was going to get my ass taken out.

7 Q. And so the last thing you would want to do
8 is go to a facility where there was a large Eme,
9 Mexican Mafia, population, right?

10 A. Well, the BOP, you go where they send you.
11 You don't have no choice.

12 Q. But you don't want to go there, do you?

13 A. No.

14 Q. Because, like you said, you thought your
15 life would be in danger if you did?

16 A. It was. It is.

17 Q. I want to talk to you a little bit about
18 the Kastigar letter. Do you remember the
19 conversation you had with Mr. Castle? Do you have
20 that in front of you?

21 A. I believe this is it.

22 Q. Did you sign that on March 23, 2018?

23 A. Yes, sir. It's my signature right there.

24 Q. Did you read that?

25 A. Yes, sir.

1 Q. Did you understand it?

2 A. Yes, sir.

3 Q. Now, you realize that the Kastigar letter
4 doesn't offer you any protection for the statements
5 that you made to Agent Roundy in February of 2011,
6 does it?

7 A. Yes, sir.

8 Q. You're completely open to prosecution, and
9 they can use those statements against you?

10 A. Yes, sir.

11 Q. Is that right?

12 A. Yes, sir.

13 Q. You understand that?

14 A. Yes, sir.

15 Q. You also understand that the Government
16 hasn't promised you any relief or any protection
17 from any statements that you made to Agent Acee in
18 January of this year, correct?

19 A. Correct.

20 Q. So all of those things you could be
21 prosecuted for?

22 A. Yes.

23 Q. And those are stabbings, right?

24 A. Yes, sir.

25 Q. Those are drug deals or use of drugs in

1 the penitentiary?

2 A. Yes, sir.

3 Q. Drugs. Dealing and distribution of drugs
4 on the outside?

5 A. Yes, sir.

6 Q. Distribution of drugs on the inside?

7 A. Yes, sir. I understand that, sir.

8 Q. And so you're certainly hoping that they
9 don't take advantage of this loophole in the
10 Kastigar letter to prosecute you, correct?

11 A. Yes, sir. Leave it in God's hands, I
12 guess.

13 Q. I mean, if they were to prosecute you, you
14 might end up in a situation where you go
15 head-to-head with the Mexican Mafia again?

16 A. Or these guys here.

17 Q. I'm sorry? What?

18 A. Or these guys here, for what I'm doing
19 now.

20 Q. Well, the Mexican Mafia is certainly more
21 powerful than any other Latin American gang, isn't
22 it? It's the most powerful one within the federal
23 prison system, right?

24 A. Nuestra Familia are a little stronger than
25 them, but --

1 Q. Okay. They're running neck-and-neck,
2 right?

3 A. Sure.

4 Q. You don't want to cross either one of
5 them, do you?

6 A. No, sir.

7 Q. Because they have members that riddle the
8 federal system, and they have associates, and they
9 have wannabes, and they have soldiers, and they have
10 torpedoes?

11 A. Yes.

12 Q. Just like the SNM did in New Mexico?

13 A. Yes, sir.

14 Q. And those torpedoes, those are guys that
15 get used up and spit out, correct?

16 A. Yes, sir.

17 Q. The whole reason for having a torpedo is
18 to use them; and then once they're done, like you
19 say, you can kill them, right?

20 A. Like you say, sir.

21 Q. Right?

22 A. Like you say.

23 Q. You have said in your testimony concerning
24 Mr. Gallegos that the conversation that he had with
25 you was when you were in what housing unit?

1 A. I was in 2-B. Where he lived, I don't
2 know.

3 Q. 2-B?

4 A. 2-B at the North.

5 Q. At North?

6 A. Yes, sir.

7 Q. Where did you exercise when you were at
8 2-B North?

9 A. Well, that day that I had that
10 conversation with him --

11 Q. No, I'm asking you where generally you
12 exercised when you were in 2-B?

13 A. 1-A and 1-B area.

14 Q. All right. So there was a 1-A and a 1-B.
15 Were there separate recreation yards then?

16 A. There was the big one. And, yeah, that's
17 it. There is another one in 3-A, 3-B, but that's
18 it.

19 Q. Can we pull up 828, please, Government's
20 Exhibit 828.

21 When you were talking about the
22 circumstance when you had met with Mr. Gallegos, was
23 this the housing unit you lived in?

24 A. Let me see. No, the middle one.

25 Q. Okay. This one here?

1 A. This one right there. That's 2-B. That's
2 2-A, 2-B.

3 Q. This one is 2-A and 2-B. Is that your
4 testimony?

5 A. Yeah.

6 Q. Take a look at it.

7 A. Yeah, that's 2-B right here. 2-B is right
8 in the middle.

9 Q. Draw a circle with your finger around what
10 you now say is 2-B. Is that right?

11 A. I think that's 2-B.

12 Q. Was this recreation yard -- did that exist
13 at that time?

14 A. I'm confused where I'm at, to be honest
15 with you. Yeah, that's 2-B.

16 Q. I'm asking you about the recreation yard
17 that's covered with a red circle. Did that exist in
18 2005?

19 A. I don't think so.

20 Q. I'm sorry? I couldn't hear you. You have
21 to pull that mic over.

22 A. I'm not too sure. I don't remember, dude.
23 I don't remember, to be honest with you.

24 Q. Do you remember if what is circled there
25 in purple was where you were? Or was it in fact

1 this housing unit here? If you're not sure, just
2 say so.

3 A. I'm not too sure. I'm not too sure.

4 Q. And if it was the housing unit that's in
5 red, there would be one side that would be 2-A and
6 one side that would be 2-B; is that right?

7 A. Yes, sir.

8 Q. And you -- I think said you were in 2-A;
9 is that right?

10 A. 2-B.

11 Q. 2-B?

12 A. 2-B, N pod, I think.

13 Q. And did you say that Mr. Gallegos was in
14 2-A?

15 A. I don't remember where he lived. I just
16 met up to him in the rec pens that day. He could
17 have been in 1-A, 1-B, or he could have been in 2-A.
18 But I don't think he lived in 2-B with us.

19 Q. Well, at that time when you went to
20 recreate from 2-B, this one here, did you go to
21 these yards there?

22 A. We went to the yards.

23 Q. Look on the chart.

24 A. I'm confused with this picture, sir. But
25 I could tell you --

1 Q. Well, do you see the picture there?

2 A. -- exactly where it's at, sir.

3 Q. Did you go to those yards there when you
4 exercised in 2-B?

5 A. I've been in the yards for a long time.

6 Q. You can't say?

7 A. I can't remember.

8 Q. And do you know whether or not those
9 individuals that were housed there in 2-A would
10 recreate in these yards?

11 A. Yes. They were rec. Which ones? Those
12 yards there?

13 Q. Right there. Do you see those marks?

14 A. Yeah. There's individuals that rec there.

15 Q. They would rec there, right?

16 A. They would rec.

17 Q. 2-B or 2-A?

18 A. Yes, sir.

19 Q. And 2-B would rec up there, correct?

20 A. You're confusing me, sir. This picture is
21 confusing me. I could tell you.

22 Q. I didn't mean to confuse you.

23 A. I can tell you.

24 Q. Let me just ask you -- can you pull up
25 113? All right.

1 Can you look, then, from July 26, 2004,
2 right here --

3 A. Yeah, that's --

4 Q. -- to 8/9/2005, that's you?

5 A. Yes, sir.

6 Q. That's where you lived?

7 A. Yes, sir.

8 Q. N-2-B, right?

9 A. Yes, sir.

10 Q. So in the housing unit B, right?

11 A. Yes, sir.

12 Q. Can you pull up 180? And can you see
13 there, this is Joe Gallegos, right?

14 A. Yes, sir.

15 Q. And during that same period of time we
16 talked about with you, he was living in North 2-A,
17 right?

18 A. I guess so. That's where he was at.

19 Q. North 2-A --

20 A. Right next door.

21 Q. -- recreated in --

22 A. The 1-A area, 1-B area.

23 Q. 180. I'm sorry. 828. This is where the
24 A unit recreated, right?

25 A. No. That right there, that's 3-B, 3-A and

1 3-B.

2 Q. Is there a rec yard attached to this
3 housing unit?

4 A. The housing unit? No. We have to come
5 and rec over here in 1-A and 1-B area. That's right
6 up here.

7 Q. You'd have to go right there, right?

8 A. Yes, sir. That's where we go to rec.

9 Q. And 1-A would go right there at the
10 bottom, correct?

11 A. No.

12 Q. You're saying --

13 A. 1-A and 1-B would come up here.

14 Q. Were they both rec in the same yard? Is
15 that what you're saying?

16 A. One unit will come out; and then they'll
17 go back in; then the next unit comes out.

18 Q. So earlier, when you said they rec'd down
19 here --

20 A. I was confused. I was mistaken. Because
21 that's 3-B there.

22 Q. I just want to know if you were mistaken?
23 Is that right?

24 A. That was a mistake.

25 Q. Because if that were true, you wouldn't

1 recreate together, would you?

2 A. No, sir. Sometimes the guards would --

3 Q. No, there's no question. Okay?

4 A. You never know.

5 Q. Okay. Now, when you were being asked some
6 questions by Mr. Castle about the time that you
7 appeared in court on March 16, 2018, and you invoked
8 your rights under the Fifth Amendment. Do you know
9 what I mean when I say that?

10 A. Yes, sir.

11 Q. "I'm not going to answer any questions
12 because I'm afraid if I do, I will incriminate
13 myself." Right? That's what you said?

14 A. Yes, sir.

15 Q. And he asked you, he said, "Why did you
16 worry about incriminating yourself?"

17 Do you know why you thought if you
18 answered questions, you would incriminate yourself?

19 A. That was -- my attorney asked --

20 Q. Do you know?

21 A. Do I know what?

22 Q. Do you know why you thought, on March the
23 16th, you would incriminate yourself if you answered
24 questions about what you testified to here today?

25 A. I don't know.

1 Q. But you certainly know that until you got
2 what is called a Kastigar letter, you weren't going
3 to say a word, right? You weren't going to say
4 anything that could be used against you, right?

5 A. Well, I took my attorney's advice.

6 Q. Well --

7 A. I took my attorney's advice.

8 Q. Well, there was a -- the next time you
9 appeared, you appeared without your attorney, right?

10 A. Yes, sir.

11 Q. And at that point in time, you also said
12 you didn't want to testify, you didn't want to
13 incriminate yourself, right?

14 A. I didn't say that.

15 Q. You didn't say at all on April the 16th --
16 I'm sorry -- April 4th, in your testimony, that you
17 did not want to take a chance on incriminating
18 yourself?

19 A. I don't recall.

20 Q. Do you remember there being a discussion
21 concerning whether or not you could proceed without
22 your attorney present?

23 A. I don't remember.

24 Q. On April 4th?

25 A. I don't remember, to be honest with you.

1 Q. Do you remember indicating that you did
2 not want to proceed without your attorney present?

3 A. I don't remember.

4 Q. Well, is it possible that you said that?

5 A. Could be.

6 Q. Now, when you claim that you had talked
7 with Mr. Gallegos there on the recreation center, do
8 you remember those things, what you've said?

9 A. Yes, sir.

10 Q. You also had mentioned in your direct
11 testimony -- I think you referred to it as
12 Inmate.com?

13 A. Yes, sir.

14 Q. There is no such website, is there?

15 A. No.

16 Q. It's just sort of a -- do you know what I
17 mean when I say the word "vernacular"?

18 A. Yes, sir. It's make-believe.

19 Q. It's just sort of a way you guys talk
20 about what can happen there, because the prison
21 system is a hotbed for rumor, isn't it?

22 A. Yes, sir.

23 Q. And people will be talking all the time
24 about what's happening or what's going on, right?

25 A. Every day, all day.

1 Q. And when you talk about Inmate.com, what
2 you're talking about is the fact that it is typical
3 among inmates to chatter about various things that
4 are going on within the institutions?

5 A. Or what happened.

6 Q. And one of the things that is really
7 important is, you want to know who is possibly an
8 informant?

9 A. Sure.

10 Q. Who can you trust?

11 A. Nobody.

12 Q. And certainly it's more -- it's certainly
13 significant within the institution to have an idea
14 of who might be an informant, right?

15 A. Good to know.

16 Q. Because if you know or believe or are
17 concerned that someone is an informant, you don't
18 want to be around them, right?

19 A. No, sir.

20 Q. Because the thing about informants is,
21 either they will tell on you, or they will make
22 something up in order to get a better deal, to get
23 cozy with the authorities, right?

24 A. It can happen.

25 Q. Yeah. And it does happen, right? You're

1 in a situation where you don't want somebody around
2 you because they may make something up in order to
3 cozy up to the authorities, right?

4 A. It can happen.

5 Q. Yeah. They want that benefit, right?

6 A. It can happen.

7 Q. They want either a better housing
8 situation or to be moved or be paid money or
9 whatever it may be?

10 A. That situation may be.

11 Q. So it wouldn't at all be unusual within
12 this chatter system that's the Inmate.com for
13 someone to want to know if an individual might be
14 trustworthy?

15 A. It's good to know who's around you.

16 Q. True as can be, right? True as blue?

17 A. Sure.

18 Q. In fact, within the system that you have,
19 one of the most valuable things that you can keep is
20 honesty?

21 A. Yes, sir.

22 Q. Respect, right?

23 A. Yes, sir.

24 Q. Right?

25 A. Yes, sir.

1 Q. And so that that is one of the very few
2 commodities that you have within the prison system
3 to protect, right?

4 A. Yes, sir.

5 Q. Are you okay?

6 A. Yeah.

7 Q. That candy.

8 A. No more candy.

9 Q. So if there is either a rumor out or on
10 the Inmate.com website that someone is not
11 trustworthy, you want to try to find that out? You
12 want to know, right, who is dishonest?

13 A. Yes, sir.

14 Q. And who may be an informant?

15 A. True.

16 Q. And who may be providing fake or false
17 information that will be used against you and in
18 their favor?

19 A. It can happen. It can happen.

20 Q. So when Mr. Gallegos and you had a
21 conversation, regardless of whatever recreation yard
22 it was on, and you claim that this conversation
23 occurred, there were no details that were provided
24 about anything that happened with Mr. Castillo, were
25 there?

1 A. No, sir.

2 Q. There wasn't anything that he provided you
3 to indicate that he had done anything to Mr.
4 Castillo, was there?

5 A. No, sir.

6 Q. And at no time in all these debriefs and
7 all these statements that you've given have you ever
8 mentioned the word or the person "Michael
9 Jaramillo," right?

10 A. No, sir.

11 Q. And you've never mentioned someone whose
12 nickname was Criminal, right?

13 A. No, sir.

14 Q. The only thing that Mr. Gallegos asked you
15 was, "Hey, can I trust Mr. Torres to be honest and
16 respectful?" Right?

17 A. "Can we trust?"

18 Q. Right?

19 A. Yes, sir.

20 Q. It was important within the prison
21 population to know if someone was a snitch, right?

22 A. Yes, sir.

23 Q. It is probably as important a piece of
24 information that you can have, in terms of who you
25 will get close with, who you trust, right?

1 A. Yes, sir.

2 Q. Who you let into your small and confined
3 life?

4 A. Yes, sir.

5 Q. Now, you also mentioned things about
6 Leonard Lujan, right? And you made statements,
7 didn't you, to Agent Acee about Leonard Lujan?

8 A. Yes, sir.

9 Q. You said you can't trust him, right?
10 Don't believe him?

11 A. I didn't say it -- I did say it like that,
12 but I said he's just --

13 Q. Crazy?

14 A. He's burned out. He's like all of them.
15 He's like me, burned out. You know what I mean?

16 Q. Well, I don't know if he's like you. He
17 didn't look like you. He didn't talk like you. But
18 certainly when you talked about him to Mr. Acee, you
19 didn't have anything that was complimentary
20 concerning him, right?

21 A. No, sir.

22 Q. And he asked you what was Leonard Lujan's
23 involvement in the situation involving either Mr.
24 Castillo or Mr. Garza, right? Do you remember that?

25 A. Yes, sir.

1 Q. And you were laughing and you said,
2 "Nothing." Do you remember?

3 A. Yeah.

4 Q. And you said, "Leonard Lujan is a fucking
5 nut job," right?

6 A. Yes.

7 Q. You meant that, didn't you?

8 A. Yeah, I was talking shit. It's just
9 talking shit.

10 Q. But, I mean, you weren't saying that as a
11 compliment, were you?

12 A. Well, I wasn't meaning it in a bad way,
13 either. I was just -- he's just burned out. I
14 don't know.

15 Q. "He didn't have to say nothing, you know.
16 He's taking a plea for something. I don't
17 understand"?

18 A. Yeah. I personally don't understand that
19 because --

20 Q. "Because he doesn't have anything to say."
21 That's what you told Acee, right?

22 A. I don't know. I don't know what he has to
23 say, if he does or he doesn't. I personally don't
24 know what he has to say or what he doesn't have to
25 say.

1 Q. You said, "Leonard's -- fucking Leonard.
2 You know, if you know Leonard, he's a loudmouth.
3 He's always trying to take credit for something he
4 didn't do." That's what you told Acee?

5 A. That's what I said.

6 Q. And that is Leonard, in your opinion?

7 A. In my opinion. My opinion.

8 Q. That's everybody's opinion of Leonard,
9 except for Leonard's opinion, isn't it?

10 A. I'm speaking on my behalf.

11 Q. Has anybody ever told you, "Man, you can
12 really trust that Leonard"?

13 A. You can. He's a good guy. He's
14 fucking --

15 Q. Only Leonard says that; isn't that right?

16 A. Leonard is Leonard, you know what I mean?

17 Q. "Well, he's always trying to take credit
18 for something he didn't do." Your words, right?

19 A. Yes, sir.

20 Q. True? That's true, isn't it?

21 A. I don't know. I just --

22 Q. Well, did you say those words because you
23 thought they weren't true?

24 A. I said it, just fucking talking shit. But
25 I said it.

1 Q. "I know for a fact Leonard didn't have
2 nothing, no say-so, nothing." Right? That's a
3 fact?

4 A. Yeah, my fact. My facts.

5 Q. "I know for a fact"?

6 A. Yeah. That's my facts.

7 Q. That's what you told Acee, right?

8 A. But that's my opinion.

9 Q. You know, you just can't trust him?

10 A. That's --

11 Q. That's what you told Acee, isn't it?

12 A. You can't trust nobody. Yes, sir, I did
13 say that.

14 MR. SINDEL: Your Honor, this would be a
15 good time to break to lunch.

16 THE COURT: Let's go a little bit longer.

17 Q. When you were at the Bureau of Prisons, I
18 think you said that you had three shanks there; is
19 that right?

20 A. Yes, sir. I had more than that. I only
21 got caught with three of them.

22 Q. Then when you are in the Bureau of
23 Prisons, you all go in to have a hearing concerning
24 whether or not you're going to be designated to the
25 Special Management Unit?

1 A. They just opened up that Special
2 Management Unit.

3 Q. Well, they've had an SMU for quite some
4 time at ADX, right?

5 A. That's the step-down program.

6 Q. The state?

7 A. Step-down program.

8 Q. Isn't ADX the most secure?

9 A. Yes, but the SMU is a whole different
10 program than the step-down program at the ADX.

11 Q. Well, isn't the SMU part of the program
12 there at ADX?

13 A. They have the one in Florence; they had
14 one in Florence.

15 Q. And when you were evaluated for whether or
16 not you should go to the SMU, did they tell you that
17 you have a history of serious and disruptive
18 disciplinary infractions?

19 A. No. They gave me my sanctions and said,
20 "We're putting you in this program." And next thing
21 you know, I was on Conair, going to SMU.

22 MR. SINDEL: May I approach, Your Honor?

23 THE COURT: You may.

24 Q. I'm going to show you that. You've seen
25 that, haven't you?

1 A. Yes, sir, I remember this.

2 Q. Do you remember your name is there?

3 A. Yes, sir.

4 Q. Your registered number, which is the
5 number that they use to designate you within the
6 BOP?

7 A. Yes.

8 Q. And they have indicated check marks on
9 certain boxes, right?

10 A. Yes, sir.

11 Q. And that statement says you have a history
12 of serious and disruptive disciplinary infractions,
13 right?

14 A. Infractions. The knife. Not a bunch, but
15 the infraction, it has a --

16 Q. A history. You have a history, right?

17 A. More than two.

18 Q. It doesn't say "more than two," does it?

19 A. No. But more than two, that's how they
20 designate it to clean out the SHUs and send
21 everybody to this program.

22 Q. Okay. So they just do that as a way to
23 get you out of there?

24 A. BOP.

25 Q. Oh, boy.

1 A. That's the BOP.

2 Q. Do you believe the BOP is as corrupt as
3 the New Mexico Department of Corrections?

4 A. No, no, no. They're nice. They're nice,
5 sir. They're wonderful. They did that. They
6 cleared out the SHUs. Because they did it
7 throughout the whole United States, and we all
8 got -- not a bunch, but most of the dudes that
9 had -- if you had two infractions, you're going to
10 the SHU.

11 Q. You had more than two, didn't you?

12 A. Yeah.

13 Q. You had a history, correct?

14 A. More than two.

15 Q. Ever since you've been in the institution,
16 you've had serious disciplinary --

17 A. Right. I got caught with a knife right
18 away. And then I got caught with another knife.
19 You know, it's just --

20 Q. Did they indicate that you are considered
21 a management problem with a total disregard for
22 institutional rules and regulations?

23 A. At that time I did have a problem,
24 problems.

25 Q. You had that problem until you got

1 released, right?

2 A. No, I just -- I just gave up, and I just
3 talked.

4 Q. Well, when you got out on supervised
5 release -- and just so we all know what that is,
6 that's sort of like parole, right?

7 A. With an ankle bracelet. I was on a GPS.

8 Q. You don't have to have an ankle bracelet.
9 Some people get out and don't have to wear an ankle
10 bracelet, right?

11 A. I guess. I had one.

12 Q. You had to, right?

13 A. I had one.

14 Q. And the ankle bracelet was to make sure
15 that they could keep tabs on where you were and
16 when?

17 A. No. They just wanted me home at a certain
18 time.

19 Q. I'm sorry? What?

20 A. They just wanted me home at a certain
21 time.

22 Q. They also wanted to make sure where you
23 were, so you weren't out doing things you weren't
24 supposed to do, right?

25 A. Yes, sir.

1 Q. And in terms of supervised release, you
2 have certain obligations that you have to abide by
3 in order to stay out of prison?

4 A. Yes, sir.

5 Q. And if you violate those conditions of
6 supervised release, you could end up going back to
7 prison?

8 A. Yes, sir.

9 Q. And you in fact were looking at that at
10 one point in time when they were making an effort to
11 revoke your supervised release and send you back to
12 prison?

13 A. Yes, sir.

14 Q. And that's when Mr. Castellano and Mr. --
15 I'm sorry to do the Italian -- Mr. Castellano and
16 Acee came to the rescue?

17 A. No, they didn't.

18 Q. Did they try to -- were they there in
19 court?

20 A. It was -- they didn't have no say-so in my
21 hearing. It was --

22 THE COURT: Let's take this up, about the
23 hearing, after lunch. All right. We'll be in
24 recess for about an hour.

25 All rise.

1 (The jury left the courtroom.)

2 THE COURT: All right. We'll be in recess
3 for an hour.

4 (The Court stood in recess.)

5 THE COURT: All right. I think we've got
6 all the defendants in the courtroom. We've got an
7 attorney for each defendant. Let me put a few
8 things on the record.

9 On the transcript that I think you marked
10 and you're going to put into evidence at some point,
11 Mr. Castle, the Court found that Mr. Lucero was an
12 unindicted co-conspirator in the Castillo and the
13 Garza murders. I'll let you put in the transcript,
14 but don't mention that. I don't think the jury --
15 because that was part of my James hearing. I found
16 a lack of preponderance of the evidence for
17 purposes. I don't think it should weigh in on the
18 jury.

19 So you can put it in, but I'm mentioning
20 it because I think the Court relied on it, so that's
21 another reason that I'm allowing it to be put in.
22 But I don't think the finding that I made should be
23 admissible because the jury may improperly defer to
24 the Court's ruling regarding what I think would be
25 inadmissible evidence at a 104 hearing.

1 MR. CASTLE: We agree with that, Your
2 Honor.

3 THE COURT: I don't think it helps
4 anybody. I don't think it helps the Government; I
5 don't think it helps the defendants.

6 If you will look, if anybody's interested,
7 it is at 2098. That was the third draft of the
8 table that we did on the James hearing.

9 Let's see. The letter that you're
10 going -- that you want to put in, Mr. Castle, I'm
11 going to mark that as Exhibit 13 to the clerk's
12 minutes. I reviewed the two sections that you have,
13 which I've marked as 4 and 5. I think you're
14 wanting to show that, again, Mr. Lucero was an SNM
15 member in 2012, to contradict his testimony stating
16 that he left SNM in 2007.

17 But, again, the same reasons that I said
18 earlier, particularly on the section 1 portion of
19 that letter. I just think that we're beginning to
20 put in -- trying to put in evidence to prove
21 collateral matters.

22 And so I'm going to sustain the
23 Government's objection and keep that out.

24 All right. Ready to bring the jury in.

25 All rise.

1 (The jury entered the courtroom.)

2 THE COURT: All right. Everybody be
3 seated.

4 All right. Mr. Lucero, if you'll resume
5 your place in the witness box. I'll remind you that
6 you're still under oath.

7 THE WITNESS: Yes, sir.

8 THE COURT: Mr. Sindel, if you wish to
9 continue your cross-examination of Mr. Lucero?

10 MR. SINDEL: I do, Your Honor.

11 BY MR. SINDEL:

12 Q. Mr. Lucero, did you ever tell the FBI
13 your -- the source for the drugs that you had
14 secured since you got out of Bureau of Prisons?

15 A. Excuse me?

16 Q. Did you ever tell the FBI the source for
17 your drugs after you got out of prison in the BOP,
18 after you got out of the Bureau of Prisons?

19 A. No, sir.

20 Q. You never volunteered that information?
21 Did they ever ask you, "Hey, look, who is the source
22 of the opiates and the other drugs you're taking?"

23 A. I just picked them up off the streets. I
24 didn't have --

25 Q. You didn't find them on the sidewalk,

1 right?

2 A. No. No.

3 Q. You found somebody who could sell it to
4 you, right?

5 A. Whoever was selling at the time.

6 Q. Did they ever ask you any information
7 about who the source for those drugs were?

8 A. No, sir.

9 Q. Okay. So at least -- but that was
10 happening, right?

11 A. Not really. I've been off drugs for a
12 long time.

13 Q. But you were dropping dirty? You know
14 what I mean by that, don't you?

15 A. Yes, sir, dirty urines.

16 Q. It means that you were urinating and they
17 were finding drugs in your urine, right?

18 A. Yes, sir.

19 Q. And I think I get it. Part of what you're
20 fighting all the time is the fact that when you're
21 caught, your first response is to deny. Fair? Is
22 that fair?

23 A. Yes, sir.

24 Q. And then if you get caught again, then you
25 go, "Okay, you got me?"

1 A. Yes, sir.

2 Q. That's sort of what you learn when you're
3 in prison, too?

4 A. Correct.

5 Q. And it's also what you learn when you're
6 addicted to drugs?

7 A. Yes, sir.

8 Q. Some questions they asked, and they asked
9 you questions about Toby Romero. Do you remember
10 those questions?

11 A. I don't remember the questions.

12 Q. Okay. And the questions were whether you
13 had ever ordered Toby Romero or Michael Rascon to
14 hit Frank Castillo, correct? That's what the
15 questions were?

16 A. Yes, sir.

17 Q. And you said, "No, that never happened"?

18 A. Yes, sir.

19 Q. "And if Toby is trying to tell you that,
20 basically he's just trying to climb on the gravy
21 train and get some benefit," correct? Under your
22 interpretation? Correct?

23 A. Correct.

24 Q. "And Toby is lying to you guys in order to
25 secure money, or time cut, or some other benefit,"

1 right?

2 A. Yes, sir.

3 Q. That's the biggest issue and biggest
4 problem with all possible informants?

5 A. Yes, sir.

6 Q. Because they begin to work for the
7 Government and try to give the Government what they
8 want, true?

9 A. Yes, sir.

10 Q. Now, I had asked you earlier about the
11 April 4th -- or I believe April 4th -- early April
12 hearing that you had in front of this judge, and you
13 were questioned by the lawyers, right? And the
14 first time that that hearing was scheduled was in
15 mid March, and that was the time you said, "I'm
16 going to take the Fifth," right?

17 A. Yes, sir.

18 Q. Do you remember indicating at the second
19 hearing, on April 4th, that you did not want to
20 answer certain questions about what was going to
21 happen at the facility before you left?

22 A. Yes, sir.

23 Q. You said you didn't want to answer those
24 questions, right?

25 A. Right.

1 Q. And you said that at least twice, didn't
2 you?

3 A. Yes, sir.

4 Q. And then there was a big back and forth.
5 And I deal with the courts, and the lawyers, and all
6 this stuff. And then you eventually answered the
7 questions that were asked?

8 A. Yes, sir.

9 Q. So, for example, when asked about
10 Mr. Gallegos, your answer was the same thing you
11 gave here today, "He just wanted to know whether he
12 could trust Mr. Torres," correct?

13 A. Correct.

14 Q. And then when you were talking to
15 Mr. Acee, you know -- I think it was in January of
16 this year, and he was recording it -- do you
17 remember stating to him, "Either you go follow
18 orders or you'll get killed"? Is that right?

19 A. Yes, sir.

20 Q. You weren't lying to him, were you?

21 A. No, sir.

22 Q. They'll kill you for not following orders,
23 not doing what you're supposed to do.

24 A. Yes, sir.

25 Q. That's a true statement? That's as true

1 as anything you've said here today, isn't that?

2 A. Yes, sir.

3 Q. And you also said, "There are just so many
4 people that right now they don't want to deal with
5 the consequences. You know, you've got a lot of
6 lifers right now, and they want to go home."

7 Do you remember saying that?

8 A. Yes, sir.

9 Q. "And they wish they could get the
10 opportunity, you know, go home. They'll cooperate,
11 just for that five, ten years off, you know, if they
12 get it," right?

13 A. Yes, sir.

14 Q. That's the danger.

15 I hope your tooth feels better, sir.

16 Thank you.

17 A. Thank you, sir.

18 THE COURT: Thank you, Mr. Sindel. Any
19 other defendant have any cross-examination of
20 Mr. Lucero?

21 All right. Mr. Castellano, if you have
22 redirect?

23 MR. CASTELLANO: Yes, Your Honor.

24 THE COURT: Mr. Castellano.

25

1 REDIRECT EXAMINATION

2 BY MR. CASTELLANO:

3 Q. Without giving us the details all over
4 again, Mr. Lucero, did you give law enforcement
5 information about the Castillo and Garza murders?

6 A. Did I give --

7 Q. Did you give the FBI information about the
8 Castillo and Garza murders?

9 A. A little bit.

10 Q. And I won't worry about the names now, but
11 did you also give them the names of people you
12 thought were involved in the murders?

13 A. Yes, sir.

14 Q. So if you were involved with that murder,
15 why would you give information to the FBI? Do you
16 understand my question?

17 A. Yes, sir. I wasn't involved.

18 Q. So in other words, had you given the names
19 of people, even if people are charged in this case,
20 couldn't that come back to hurt you?

21 A. Yes, sir.

22 Q. So, for example, if you were right about
23 the names and you had ordered those hits, could
24 those people then become witnesses against you?

25 A. Yes, sir.

1 Q. So were you worried about yourself
2 necessarily when you gave this information to the
3 FBI?

4 A. No, sir.

5 Q. I want to ask you about the sentencing
6 hearing you had, and you were asked whether myself
7 and Agent Acee were there. Do you remember that
8 sentencing hearing?

9 A. Yes, sir, very clearly.

10 Q. And do you remember one of the reasons why
11 Agent Acee was there?

12 A. I don't recall.

13 Q. Do you recall if he was there to testify
14 if necessary?

15 MR. SINDEL: Your Honor, I'm going to
16 object to the leading form of the question. He said
17 he didn't recall.

18 MR. CASTELLANO: I can refresh his
19 recollection, Your Honor.

20 THE COURT: Why don't you do that?

21 MR. CASTELLANO: May I approach?

22 THE COURT: You may.

23 BY MR. CASTELLANO:

24 Q. Page 14 of the March 13, 2017 transcript.
25 I'm going to have you read this quietly to yourself,

1 Mr. Lucero, and if it refreshes your recollection
2 afterwards, I'll ask you one of the reasons why
3 Agent Acee was present at that hearing.

4 A. I remember.

5 Q. Does that refresh your recollection,
6 Mr. Lucero?

7 A. Yes, sir.

8 Q. What was one of the reasons that Agent
9 Acee was there?

10 A. To testify that I had a green light on me
11 and that they were going to use me as a historical
12 witness.

13 Q. Was that information provided to the Court
14 at your sentencing, that there was a green light on
15 you?

16 A. Yes, sir.

17 Q. So as part of the sentencing, do you
18 recall whether or not that was something the parties
19 were asking the Court to consider, was whether or
20 not you would be in harm's way, depending on where
21 you were going to be placed?

22 A. I don't understand that question.

23 Q. Did it matter, because of this green
24 light, where you might be sentenced or you might be
25 sent?

1 A. Yes, sir, it did, because they wanted to
2 send me to a halfway house. And at that time, at
3 that halfway house, there was active gang members,
4 and it would have been a threat to the security of
5 the institution.

6 Q. When you were asked about the April 5,
7 2018, hearings, do you remember when you were called
8 as a witness before this trial started, at a
9 hearing?

10 A. Yes, sir.

11 Q. And who was it who called you to the
12 hearing? Was it the prosecution or the defense?

13 A. The defense attorneys. I got subpoenaed
14 by them.

15 Q. And the first hearing in March when you
16 came, is that when you invoked your right to the
17 Fifth Amendment not to make statements?

18 A. Yes.

19 Q. When you showed up on April 5th, was your
20 attorney with you at that time? Did you say
21 concerns about whether or not your attorney was
22 there or not?

23 A. I think he was there.

24 Q. Would it help refresh your recollection?

25 A. Yes.

1 MR. CASTELLANO: May I approach, Your
2 Honor?

3 THE COURT: You may.

4 A. Okay.

5 Q. Can you recall if your attorney was there?

6 A. Now I remember. He wasn't there.

7 Q. And when that hearing began, did you have
8 some concerns about asking questions -- or answering
9 questions without your attorney there?

10 A. Yes, sir, I did. I had concerns. I
11 didn't want to answer nothing unless I spoke with my
12 attorney.

13 Q. And eventually, probably within a few
14 minutes, did you then agree that you would answer
15 questions anyway?

16 A. Yes.

17 Q. Now, since it was the defense attorneys
18 who called you to that hearing, did you know what
19 they would be asking you before you took the stand?

20 A. Pretty much.

21 Q. And did you know -- well, did they tell
22 you what they were going to ask you?

23 A. No.

24 Q. Did they show you any reports where you
25 could refresh your memory before you testified?

1 A. No, sir.

2 Q. And so at that point, were you testifying
3 from your memory as best as you could?

4 A. Yes, sir.

5 Q. Now, initially you were asked about
6 whether or not you remember making any statements or
7 whether or not Christopher Chavez made statements to
8 you. Do you remember that?

9 A. I think so.

10 Q. When it came to Christopher Chavez, do you
11 remember if you recalled his statements when you
12 were first asked by the defense attorneys?

13 A. What do you mean?

14 Q. Were you -- first of all, were you asked
15 whether or not Christopher Chavez had made any
16 statements to you?

17 A. Yes.

18 Q. And do you remember, the first time you
19 were asked that question, whether you could remember
20 the statement?

21 A. I don't.

22 Q. Regardless, do you remember later on that
23 you were able to provide information about what he
24 told you?

25 A. Yes, sir.

1 Q. And do you recall what that was?

2 A. What he told me?

3 Q. Yes.

4 A. Yeah, I do remember what he told me.

5 Q. And at that point, during that same
6 hearing, were you then able to tell the Court the
7 same thing you've told this jury about statements by
8 Christopher Chavez?

9 A. Yes, sir.

10 THE COURT: Mr. Shattuck, did you have
11 something? You're okay? All right.

12 Go ahead, Mr. Castellano. Did you get the
13 answer you wanted?

14 MR. CASTELLANO: I believe I did.

15 Q. So do you recall that? Were you able to
16 provide that information?

17 A. Yes, sir.

18 Q. I want to ask you if that was the
19 information about Mr. Chavez being concerned that
20 you would warn Looney that he was going to be
21 killed?

22 A. Yes, sir, that's what it was.

23 Q. And do you also recall whether or not you
24 stated -- did he ask you, "What should I do,
25 carnal?"

1 A. Yes, sir.

2 Q. And did you give the answer to what you --

3 MR. SOLIS: The questions are leading,
4 Your Honor. I'm going to object to the leading form
5 of the question, suggesting the answer to the
6 witness.

7 THE COURT: Well, these are prior -- being
8 offered as prior consistent statements. I'm not
9 sure how else to get the statement out and find out
10 whether he said it or not. So overruled.

11 BY MR. CASTELLANO:

12 Q. And do you recall responding, "I said, you
13 know, you know what you have to do"?

14 A. Yes, sir.

15 Q. Is that the same thing you told the jury?

16 A. Yes, sir.

17 Q. Have you previously stated that you knew
18 what was going to happen to those men, but not how
19 it was going to happen to them?

20 A. Yes, sir.

21 Q. Now, you were asked about Leonard Lujan.
22 Was Leonard Lujan in good standing at the time of
23 the Castillo and Garza murders?

24 A. Yes, sir.

25 Q. And what power or authority did he have?

1 A. He's been a brother for a long time. You
2 know, he got a lot more years than a lot of the guys
3 that were recently brought in. His standings are
4 good.

5 Q. Let me ask you this: Could Leonard Lujan,
6 on his own, have ordered the murders of Castillo and
7 Garza?

8 A. My personal opinion? Yeah, he could have.

9 Q. And what if he had Billy Garcia backing
10 him?

11 A. All day.

12 Q. Does that make a difference regarding
13 Leonard Lujan, if Billy Garcia is backing him up?

14 A. Yes, sir.

15 Q. And did you not provide the name "Leonard
16 Lujan" because that's not a name you'd heard through
17 the --

18 A. I even forgot that Leonard was around, you
19 know what I mean? It's been so long that, you know,
20 I completely forgot.

21 Q. What about the name "Michael Jaramillo"?

22 A. Also.

23 Q. So did you not give those names to law
24 enforcement as people who were involved with these
25 murders?

1 A. I didn't.

2 Q. So the statements that you told law
3 enforcement about, were those statements that other
4 people told you about the murders?

5 A. Yes, sir.

6 Q. And once you had those statements, did you
7 give that information to law enforcement?

8 A. Eventually I did, sir.

9 Q. And so did you know anything more about
10 the statements, since you weren't there?

11 A. No.

12 Q. Okay. So were you just telling them what
13 other people told you?

14 A. Yes, sir, what I've been told.

15 Q. And the question about Joe Gallegos and
16 whether or not Lorenzo Torres could be trusted, was
17 that question relating to whether he could be
18 trusted regarding the Castillo murder?

19 MR. SINDEL: Well, object, Your Honor.
20 That misstates exactly what he said.

21 MR. CASTELLANO: Not on direct, Your
22 Honor.

23 THE COURT: Well, I'll overrule the
24 objection.

25

1 BY MR. CASTELLANO:

2 Q. So in terms of whether or not he could be
3 trusted, was the conversation about whether or not
4 he could be trusted about the Castillo murder?

5 A. Yes, sir. It could have been that, or it
6 could have a bunch of other things. But I knew what
7 he was talking about.

8 Q. Now, you were asked about the timing of
9 when Jake Armijo was at the facility. Do you
10 remember that?

11 A. Yes, sir.

12 Q. Do you recall telling law enforcement
13 about when you thought he was at the facility?

14 A. Yeah. I thought he was there at the time.
15 Like I said, I've been in and out of prison all my
16 life. So meeting these guys, I just got the dates
17 mixed up, and I just completely spaced it out.

18 Q. And what about the timing of when Jake
19 Armijo got there and whether he conspired with Billy
20 Garcia at the same time? Do you remember what you
21 said about that?

22 A. No, I don't.

23 Q. Would it help to refresh your
24 recollection?

25 A. Yes, please.

1 Q. I'm going to have you read these two
2 sections here. Do you recognize this as a
3 transcript from the recording with the FBI?

4 A. Yes, sir.

5 Q. Read it there.

6 A. Okay. Yes, I remember saying that.

7 Q. What do you remember about what you
8 thought -- the timing of when you thought Jake
9 Armijo arrived at the facility?

10 A. That what?

11 Q. What do you remember about the timing of
12 when you thought Jake Armijo arrived at the
13 facility?

14 A. I thought he got there at that time, but
15 it was a different time I was thinking of, and when
16 we were at Level 4, more than likely. I don't know.
17 I just -- I completely spaced it out.

18 Q. And do you recall stating, "And Jake got
19 there and then to, boom," meaning him and Billy
20 Garcia?

21 A. Yes, sir.

22 Q. And do you know now, from the records,
23 that that couldn't have happened, that Jake Armijo
24 could not have arrived at the facility at the same
25 time as Billy Garcia, as you remembered it?

1 A. Yes, now, I was shown different.

2 Q. And do you recall previously that you
3 thought you remembered seeing Jake Armijo the day
4 you left the facility?

5 A. I thought I seen him when I left, but he
6 wasn't even in the facility.

7 Q. When you were asked about people getting
8 shipped out the same time as Jake, Jake Armijo, you
9 said, "No." I want to ask you, when you said those
10 guys got shipped out, what were you referring to
11 when it came to Lino G, T-Bone, and Pumba? Where
12 did they get shipped to?

13 A. They got shipped out of the facility,
14 either to Virginia or to a maximum security. I know
15 they got transported out of there.

16 Q. Did you know Jake Armijo to get shipped to
17 Virginia with them?

18 A. I'm not too sure if he did or not, to be
19 honest with you.

20 Q. Do you think the prison records would show
21 where Jake Armijo went?

22 A. Yes, sir, they would show. He could have
23 got shipped to the North facility or even the South.

24 Q. When you were at the facility, before you
25 left, did Billy Garcia run down to you basically

1 what was going to happen?

2 A. He didn't really run down to me too much.
3 He just said that they got it, you know what I mean?
4 Just to go home. More than likely, that they got
5 it, would take care of it.

6 Q. So did you have any conversation with
7 Leonard Lujan about this murder conspiracy?

8 A. No, sir.

9 Q. And do you recall whether or not you told
10 the FBI previously that Billy Garcia picked his
11 crews to do those jobs?

12 A. Yes, sir.

13 Q. Once again, if you weren't there and the
14 others weren't there, who would have been the person
15 there to oversee these hits at Southern New Mexico
16 Correctional Facility?

17 A. Billy. That would have been it.

18 Q. You were asked about a fight you had with
19 Frankie G in the feds. Do you remember that?

20 A. Yes, sir.

21 Q. Did that put you in a good position or a
22 bad position?

23 A. No, they want to kill me.

24 Q. And is that especially true in light of
25 the power that he now holds?

1 A. Yes, sir.

2 MR. CASTELLANO: May I have a moment, Your
3 Honor?

4 THE COURT: You may.

5 MR. CASTELLANO: Thank you, Your Honor. I
6 have no further questions.

7 THE COURT: Thank you, Mr. Castellano.
8 Did you have something else, Mr.
9 Blackburn?

10 MR. BLACKBURN: I need to talk to Mr.
11 Castle.

12 RECROSS-EXAMINATION

13 BY MR. CASTLE:

14 Q. Mr. Lucero?

15 A. Yes, sir.

16 Q. I think you just talked about some
17 problems you had in the Lewisburg penitentiary,
18 right?

19 A. Yes, sir.

20 Q. And I think earlier you said that that was
21 not going to put you on the verge of going to ADX.
22 Do you recall that? You said you weren't even --
23 there was no chance you were going to have to go to
24 ADX?

25 MR. CASTELLANO: Objection; it's beyond

1 the scope of redirect, Your Honor.

2 THE COURT: What's this related to within
3 the redirect?

4 MR. CASTLE: Well, because it has to do
5 with the fight with Joe Gallegos.

6 THE COURT: All right.

7 MR. CASTELLANO: That would be Frankie
8 Gallegos.

9 MR. CASTLE: I'm sorry. Frankie Gallegos.
10 I'm sorry.

11 THE COURT: Okay.

12 BY MR. CASTLE:

13 Q. So do you recall?

14 A. If I would get in trouble, that's when
15 your points go up and they do the three referrals on
16 you. You need three referrals to go to the ADX, and
17 those are like major misconduct reports, assault on
18 officers, attempted murders, whatever else.

19 Q. Do you remember on May 26, 2016, there was
20 a resentencing here or in Albuquerque in front of
21 Judge Browning, and you said that you almost made it
22 to ADX? Do you recall telling the judge that?

23 A. I don't recall that.

24 Q. Let me approach the witness.

25 A. One step closer to it.

1 Q. Do you recall telling him, "I'm in
2 Indiana, Pennsylvania, Lewisburg, SMU programs,
3 almost made it to the ADX"? Do you see that?

4 A. One step.

5 Q. And that was because you had attempted --
6 you got in a fight with Mr. Gallegos, correct?

7 A. Yes, sir.

8 Q. And you wanted to stab him in the neck?

9 A. At the time I did, sir.

10 Q. Okay. Now, there were some questions that
11 the Government just asked you about being subpoenaed
12 by the defense. Do you remember that?

13 A. Yes, sir.

14 Q. And did they give you reports to review
15 and things of that nature? Do you recall that?

16 A. I don't recall.

17 Q. I think they said, "Well, did the lawyers
18 give you reports, your prior reports to read?" Do
19 you remember that?

20 A. I don't remember that.

21 Q. Well, your lawyer was given every single
22 report so he could go through it with you before you
23 had to testify, right? And that was provided by the
24 defense?

25 A. (Witness indicated.)

1 Q. Let's talk about the first time you were
2 subpoenaed by the defense. Okay? It was at your
3 home, right?

4 A. Yes, sir.

5 Q. And a defense investigator, Benjamin Wood,
6 came to your house. Do you recall that?

7 A. Yes, sir.

8 Q. And Mr. Wood attempted to give you a
9 subpoena. Do you remember that?

10 A. Yes, sir.

11 Q. And you said, "I'm not Leroy Lucero"?

12 A. Yes, sir.

13 Q. You said, "Mr. Lucero doesn't live here"?

14 A. Yes, sir.

15 Q. And Mr. Wood attempted to leave the
16 subpoena there on the ground. Do you recall that?

17 A. Yes, sir, I do.

18 Q. And at that point, you threatened him by
19 saying you're going to call your homies. Do you
20 remember that?

21 A. No, I don't -- I did. I did talk some
22 smack to him.

23 Q. That was in 2018, this year?

24 A. Yes, I understand that.

25 Q. Okay.

1 A. I don't have no homies to call.

2 MR. CASTLE: Your Honor, could we have
3 that be stricken from the record? It wasn't
4 responsive.

5 THE COURT: The record will be stricken
6 with regard to that last comment, and the jury will
7 disregard it.

8 Mr. Castle.

9 BY MR. CASTLE:

10 Q. So before you testified, do you recall
11 that -- I think you said you knew that we had given
12 you, through your lawyer, every single statement to
13 review, right?

14 A. Yes, sir.

15 Q. Then I think there were some questions
16 about whether your attorney showed up the day that
17 you testified; is that correct?

18 A. Yes, sir.

19 Q. And that was because you and he agreed he
20 didn't have to show up, right?

21 A. That was -- I'm getting the times mixed
22 up.

23 Q. Well, when you testified and said you
24 weren't comfortable talking, things like that, your
25 lawyer wasn't there, and you just admitted that to

1 Mr. Castellano, right?

2 A. Yes, sir.

3 Q. And that was because you and he had agreed
4 that he didn't have to be here. It wasn't like he
5 abandoned you or anything like that?

6 A. No, no, no. We agreed to it.

7 Q. Now, with regard to Mr. Lujan, I think you
8 said that you and he have never talked about this,
9 right?

10 A. Yes, sir.

11 Q. Never had a chance to talk about it?

12 A. No, sir.

13 Q. Even though you'd heard rumors about what
14 had happened?

15 A. I heard some rumors.

16 Q. I want you to look at -- can we put up
17 Government Exhibits 97 and 113 side by side.

18 We'll look first at your time period right
19 here. Do you see between the dates of August 9,
20 2005, and January 16, 2006 -- I'm sorry, that's the
21 wrong one.

22 Right here. Between July 26, 2004, and
23 August 9th of 2005, you were in a unit, North 2-B
24 unit. Do you see that?

25 A. I see the red thing, PNM.

1 Q. Yeah, right above it.

2 A. Oh, right above it.

3 Q. Between July 26, 2004, and August 9, 2005,
4 you were in the North 2-B unit of PNM?

5 A. Yes, sir.

6 Q. And let's go look over at Mr. Lucero's --
7 I mean, Mr. Lujan's. Because you just told us you
8 never had the opportunity to talk to him.

9 Could we go to the second page of Mr.
10 Lujan's? I'm going for the 2004, '05 range, if we
11 could.

12 Right here. From 12/22/2004 to 2/7/2005,
13 Mr. Lujan was in the same exact unit of the PNM
14 North 2-B unit. Do you see that?

15 A. Yes, sir.

16 Q. And you were only five cells away?

17 A. Yes, sir. He was --

18 Q. No, no, no. There is no question. But
19 the truth is, you two did have opportunities to talk
20 about the murders? "Yes" or "No"?

21 A. Yes, sir.

22 Q. There was a question about whether or
23 not -- if Mr. Lujan had the power to order the hits,
24 and you said "Yes?" Is that right?

25 A. Yes, sir.

1 Q. And then especially if he had the backing
2 of Billy Garcia. I think that was your answer?

3 A. Yes, sir.

4 Q. And while you were the shot-caller there,
5 Mr. Lujan had the power to call the hits with your
6 backing, as well?

7 A. If it came out to it.

8 Q. So the Government tried to point out or
9 did point out that in your January 17th interview
10 this year, you told the FBI that Jake Armijo and
11 Billy Garcia conspired together to order the hits.
12 Do you recall that?

13 A. Yes, sir.

14 Q. And it wasn't until you were shown that
15 that was physically impossible that you then said,
16 "No, Jake brought down orders on one occasion, and
17 Billy brought them down on another"?

18 A. Yes, sir.

19 Q. Mr. Lucero, I want to show you a document
20 which is selected pages from March 12, 2018, and
21 these are being offered as an admission by the
22 Government. If we could move this over to the
23 overhead projector.

24 Do you see here -- luckily, my lines are
25 in the perfect spot.

1 "Should I be listening? Leroy Lucero is
2 somebody the Government thinks is part of the
3 Garcia" -- what they meant was Garza --
4 "conspiracy."

5 "MR. CASTELLANO: Castillo and Garza,
6 G-A-R-Z-A."

7 The Court says, "Yes."

8 "I'm sorry. I can't read my writing.
9 Garza. So I need to move Leroy Lucero over to
10 Garza, as well."

11 Do you see that?

12 A. Yes, sir.

13 Q. So do you agree with Mr. Castellano that
14 you were a co-conspirator in the murders of Garza
15 and Castillo?

16 A. I don't know.

17 Q. You don't know whether you were?

18 A. I've never -- I never heard nothing. This
19 is the first time I've seen that.

20 Q. I'll show you another page where Mr.
21 Castellano, in response to a question, "And Angel
22 Munoz, are you alleging that he's a co-conspirator?"

23 And the answer is, "Yes."

24 Is that right?

25 Well, let me ask you a question about

1 that. Angel Munoz and you did talk about the
2 murders of these two men?

3 A. He didn't say exactly "murders." He just
4 said, "I'm gonna clean house."

5 Q. Okay. That included murdering these two
6 men, and he told it to you, correct?

7 A. He didn't say about "murder." He said
8 "clean house." I don't know what --

9 Q. He talked about cleaning the house of Mr.
10 Garza and Mr. Castillo, and he told it to you?

11 A. He never told me about murder.

12 MR. CASTLE: I have no other questions.

13 THE COURT: Thank you, Mr. Castle. Mr.
14 Sindel.

15 RE CROSS-EXAMINATION

16 BY MR. SINDEL:

17 Q. One thing different about the people who
18 populate the federal prison system is, many of them
19 have gotten there as a result of individuals
20 cooperating or performing on behalf of the
21 Government?

22 MR. CASTELLANO: I'll object as to
23 foundation and beyond the scope, Your Honor.

24 THE COURT: Well, I'll allow the question,
25 but how is it tied to the recross?

1 MR. SINDEL: Well, he brought up the fact
2 as to whether or not he would have implicated
3 himself in a situation when he gave information to
4 the FBI. I want to demonstrate that there are a
5 number of people who end up implicating themselves,
6 who give information to law enforcement in order to
7 get a good deal.

8 THE COURT: All right. I'll allow a few
9 questions on that.

10 BY MR. SINDEL:

11 Q. Okay. Do you remember the question?

12 A. No, sir.

13 Q. That you ran into a lot of people in the
14 prison population that had people who cooperated
15 against them?

16 A. Yes, sir.

17 Q. More so than in the New Mexico Department
18 of Corrections, correct?

19 A. Yes, sir.

20 Q. I mean, it's rampant within the people
21 that are in the prison system, in the federal prison
22 system, right?

23 A. Yes, sir.

24 Q. And you know that some of those people,
25 they said, "Well, you've got to get -- the first to

1 get on the train"?

2 Have you ever heard of the phrase "rush to
3 the courthouse"?

4 A. No.

5 Q. Were you ever aware of situations where
6 people have tried to be the first ones to cooperate
7 because they get the best deals?

8 A. I heard of something like that.

9 Q. And so that -- and you know within the
10 federal system, there's a thing called substantial
11 assistance? Have you ever heard of that phrase?

12 A. No. What does that mean?

13 Q. Are you aware that people who provide
14 information to the Government, that if they come
15 first, they get the best deals? Isn't that what
16 people told you all through the system?

17 A. I've heard that before.

18 Q. And they asked you whether or not we, the
19 defense lawyers, told you what they were going to
20 ask you on March 16th and again on April 4th. Do
21 you remember those questions?

22 A. Yes.

23 Q. But they told you what they were going to
24 ask you here today, didn't they? They gave you an
25 outline of what they were going to ask you and the

1 questions they were going to go through, didn't
2 they?

3 A. There were some questions.

4 Q. Yeah. And when you talked about Joe's
5 statements to you, I think the words you used was
6 "in my opinion," correct?

7 A. Yes, sir.

8 MR. SINDEL: That's all I have.

9 THE COURT: Thank you, Mr. Sindel.

10 MR. SOLIS: May I have a couple questions,
11 Your Honor?

12 THE COURT: Mr. Solis.

13 RECROSS-EXAMINATION

14 BY MR. SOLIS:

15 Q. Mr. Lucero, Mr. Castellano discussed a
16 little while ago who reviewed with you the fact that
17 you didn't have advance notice of the questions
18 posed to you back on April the 5th of 2018. Do you
19 remember, he just asked you that a little while ago?

20 A. No.

21 Q. Mr. Castellano, a little while ago,
22 reviewed with you the fact you didn't have a lawyer
23 at first, and then you did get one. Do you remember
24 that?

25 A. Yes, sir.

1 Q. Then he said, "You didn't have advance
2 notice of the questions that were going to be posed
3 to you? You didn't have advance notice?"

4 And you said, "That's correct."
5 You did not?

6 A. I didn't.

7 Q. All right. And do you remember this
8 morning when we did the cross-examination, I
9 reviewed with you where, in response to Mr. Castle's
10 questions about whether he had any conversation with
11 Mr. Chavez with regard to the 2001 murders, you said
12 "No"? Do you remember we reviewed that?

13 A. Yes, sir.

14 Q. So you don't need advance notice to tell
15 the truth, do you?

16 A. No, sir.

17 Q. All right.

18 MR. SOLIS: No more questions, Your Honor.

19 THE COURT: Thank you, Mr. Solis. All
20 right.

21 Any redirect, Mr. Castellano?

22 MR. CASTELLANO: Yes, Your Honor.

23 FURTHER REDIRECT EXAMINATION

24 BY MR. CASTELLANO:

25 Q. So as that hearing went on, did you

1 remember what Christopher Chavez told you?

2 A. Yes, sir.

3 Q. Now, you told this jury already, if you
4 recall, that you received a call from Angel Munoz.
5 Do you remember that?

6 A. To call him, yes, sir.

7 Q. That's right. You called him?

8 A. Yes, sir.

9 Q. And as a result, you learned that Billy,
10 Wild Bill, was coming to Southern?

11 A. Yes, sir.

12 Q. To clean house?

13 A. Yes, sir.

14 Q. Do you recall that when he got there,
15 before you left, you asked him if there was anything
16 you could do?

17 A. Yes, sir.

18 MR. CASTLE: Objection, Your Honor; beyond
19 the scope.

20 THE COURT: I think it's within.
21 Overruled.

22 Q. So at that point, is it fair to say that
23 at that moment before you left, that you had agreed
24 that if you had to be involved with the murder, you
25 would do so?

1 A. Yes, sir, I would have, because I brought
2 in Looney.

3 Q. And he was your responsibility?

4 A. He was my responsibility.

5 Q. So for that moment in time, there was an
6 agreement, wasn't there, that you would kill Looney
7 if you were called upon to do so?

8 A. If I had to, I would have, sir.

9 Q. And why did you not?

10 A. They told me they got it; go home.

11 MR. CASTELLANO: No further questions,
12 Your Honor.

13 THE COURT: Thank you, Mr. Castellano.
14 All right.

15 Mr. Lucero, you may step down. Is there
16 any reason that Mr. Lucero cannot be excused from
17 the proceedings?

18 Mr. Castellano?

19 MR. CASTELLANO: No, Your Honor.

20 THE COURT: Does any defendant object to
21 him being excused?

22 Not seeing or hearing any objections,
23 Mr. Lucero, you are excused from the proceedings.
24 Thank you for your testimony.

25 THE WITNESS: Yes, sir.

1 UNITED STATES OF AMERICA

2 STATE OF NEW MEXICO

3

4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,
6 Official Court Reporter for the State of New Mexico,
7 do hereby certify that the foregoing pages
8 constitute a true transcript of proceedings had
9 before the said Court, held in the District of New
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my
12 hand on this 30th day of May, 2018.

13

14

15 _____
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